REPORT ON A SCHEME

OF

PLEADING AND PROCEDURE,

WITH

Forms of Indictment

ADAPTED TO

THE PROVISIONS OF THE PENAL CODE.

CALCUTTA:

W. RIDSDALE, MILITARY ORPHAN PRESS.

1848.

FROM THE INDIAN LAW COMMISSIONERS,
TO THE RIGHT HONORABLE

THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.

DATED THE 1ST FEBRUARY, 1848.

1. In the letter of Mr. Secretary Bushby, dated the 20th March last, the following instruction was communicated to us. "The President "in Council is desirous, that on the completion of your Report on the "remaining Chapters of the Code you should direct your early atten- "tion to the preparation of a Scheme of Pleading and Procedure, with "Forms of Indictment adapted to the provisions of the Code."

2. In our first Report on the Penal Code, we said "we thought "it might be brought into operation in the Company's Courts, with "little, if any alteration of procedure, with the help of a few plain and "simple directions, as to the manner of laying the charges, and some "rules to define the offences falling to the jurisdiction of the several "Courts, with reference to the punishments they are respectively autho- "rized to inflict." Para. 649.

3. For the present in attempting to fulfil the instruction of Government, we shall confine our attention to the Company's Courts.

4. In all the Presidencies there are Courts of Session for the trial of the graver offences. In Bengal and Bombay, the Courts of the Magistrates, and in Madras the Subordinate Criminal Courts, are those which stand next in order. The Courts of this class in Bengal and Madras have nearly similar jurisdiction; it embraces generally offences punishable with imprisonment to the extent of six months, or fine to the amount of 200 Rupees, and specially cases of theft, simple burglary, &c., punishable with imprisonment which may extend to two years, to which in Madras may be added corporal punishment, and in Bengal protracted imprisonment to the extent of one year in lieu thereof. In Bombay, the jurisdiction of the Magistrates' Courts comprehends all offences punishable with imprisonment which may extend to one year. All offences beyond the jurisdiction of the Courts of the Magistrates in Bengal and

Bombay, and the Subordinate Criminal Courts in Madras, must be tried by the Courts of Session.

5. In all the Presidencies, the Magistrates, and other Criminal judicatories below the Session Courts, proceed to the trial of persons accused of offences within their own jurisdiction, upon information laid before them by the complainants, or submitted to them by the Police, without the formality of an indictment, and the defendant is convicted or acquitted, according as the evidence establishes, or fails to establish an offence against him. Having heard the statement of facts upon which he is accused, and the evidence offered in proof thereof, he is required to answer, and if he fails to clear himself, he is condemned upon the facts actually proved by the evidence, and sentenced to punishment for the offence, which by law those facts amount to.

6. In Bengal and Bombay, the Magistrates, in Madras, the Subordinate Criminal Courts, make a preliminary investigation of cases in which persons are accused of offences which belong to the jurisdiction of the Session Courts, to ascertain whether there is ground for putting them on trial before those Courts, and if upon that inquiry the evidence appears to be sufficient, they commit them for trial accordingly on specific charges framed by them suitably to that evidence.

Process of commitment.

7. The question of the expediency of continuing the process of commitment in cases amenable to the jurisdiction of the Session Courts was discussed when the reform of the Madras Judicial System was under consideration. The Court of Foujdaree Udalut at Madras, strongly recommended, that "offenders should go direct from the Native Police or "Magistracy, who arrest, to the Judge who is to try them." Observing that this mode of proceeding already obtained generally in cases within the jurisdiction of the lower Courts, they said, they saw "the most "urgent reasons for its adoption universally." They remarked, that "it would be necessary under this arrangement, that the Session "Judge should himself perform what may remain to be done in order "to complete each case for trial, that is to be tried by himself; but this "is only what is often now done by Circuit Judges, and always by Criminal Judges, Sudder Ameens, and Assistant Criminal Judges, in cases in "which sentence is passed by themselves, and what will be done under the "proposed new arrangement by Assistant Judges and Principal Sudder "Ameens, in cases in which sentence is passed by them; and the Foujdaree "Udalut believe, that it never will be found liable to any objection so far as "the trial itself is concerned. It will besides be attended with three obvious "advantages, viz. 1st. It will bring higher qualifications to bear upon the

Proceedings, 14th January 1841.

" preparation of the cases; 2nd. The preparation will be more exactly " adapted to the trial, both being the work of the same person, who " must know better than any other can know what parts of the case " require further elucidation, for the full satisfaction of his own mind " in the discovery of the truth; and 3rdly. It will be a clear saving of " so much of the Assistant Judge's or Principal Sudder Ameen's time, " and of so much delay before the trial, as it would take to hear and " consider the original informations, without taking up but a very little " more of the Judge's time, than if that work had been performed by " the Assistant Judge or Principal Sudder Ameen; for whatever either " of these did, the Judge must still, before the trial, make himself ac- " quainted with all the previous informations and proceedings."

8. Upon this recommendation of the Madras Foujdaree Udalut, the Law Commissioners made the following observations. " There " can be no doubt that some time would be saved, and certainly much " inconvenience to the prosecutors and witnesses, in the cases tried by the " Session Judges, if they came to them directly from the Police or Magis- " tracy, and we think that this will be the proper course when a good " system of Police under a public prosecutor shall be organized. The " plan suggested is to dispense with the intervention of the Assistant " Judge or Principal Sudder Ameen in all cases cognizable by the Ses- " sion Judges. But it is to be remembered that by this intervention " the cases which are sent up by the Police, &c., without sufficient proof " to support the charges against the prisoners are prevented from going " to trial. We find on reference to the operations of the Criminal " Courts in cases cognizable by the Courts of Circuit that the number " of persons discharged for want of evidence is generally greater than " the number of persons committed. This plan, under existing circum- " stances, would therefore at once more than double the number of " persons to be tried by the Session Judges, and they would have a great " deal more to do in the cases to be tried from their coming to them " without previous preparation by a committing Officer. On the other " hand the Assistant Judges and Principal Sudder Ameens whose time " is in every respect less valuable would be relieved from a very large " portion of the business intended to be assigned to them."

Report dated 10th July 1841.

9. The Governor General in Council objected " to the proposition " for sending cases directly from the Police to the Session Judges, " without a previous sifting and arrangement of the evidence by " another responsible Officer, and a regular commitment for trial, upon " specified grounds, after such preliminary inquiry," observing that " the preparation of a case, involving the detection and pursuit of traces,

To Government of Fort St. George, Legislative Department, 29th November 1841.

"and suspicions of guilt, the active conduct, in fact, of a public prosecution, is wholly inconsistent with the calmness and impartiality requisite in a Judge. These indispensable qualities in the Judicial Bench, he would never, in this manner, put in hazard. The expedition which can be gained only at the risk of their loss, would, in his judgment, be an expedition subversive of the first securities for justice."

Act VII. 1843, Sections 44 and 45.

10. The result was that the process of commitment was continued except where the station of the Subordinate Criminal Court is different from that of the Session Court, or where there is no Subordinate Criminal Court in the Zillah, in which cases the Session Court takes cognizance of offences subject ordinarily to the jurisdiction of the Subordinate Criminal Court, as well as of offences subject properly to its own jurisdiction, as they are sent up by the Police, and proceeds to the trial of them both in the same manner.

11. We adhere to the opinion expressed in the Report of the Law Commissioners quoted above that when a good system of Police shall be organized with a provision for the appointment of public prosecutors there will be no reason for an intermediate investigation in cases cognizable by the Session Court, between the initial inquiry of the Police and the trial by the Session Court, nor for a commitment by an intervening Officer. But as was observed by the Governor General in Council on the same occasion, the measure here adverted to is contemplated as a part of a general arrangement which may not be practically undertaken for a length of time, and under existing circumstances the present mode of procedure for bringing offenders amenable to the jurisdiction of the Session Courts to trial before them is perhaps the most convenient that could be adopted.

12. We think it proper however to take this opportunity to observe that the mode of proceeding proposed by the Madras Foujdaree Udalut does not appear to us to be so objectionable in principle as the Governor General in Council considered it to be. We do not perceive that the preparation of a case for trial in the manner intended by that Court "is wholly inconsistent with the calmness and impartiality required in a "Judge." It does not seem to us that what the Judge would have to do amounts to "the active conduct of a public prosecution" "involving "the detection and pursuit of traces and suspicions of guilt." The manner of proceeding would be something like this.* On a case being sent up to him by the Police the Judge would peruse the informations and depositions submitted to him, and if they presented a statement of facts which being proved would constitute an offence subject to his jurisdic-

* It must be in some such way as this that the Session Courts proceed in the Madras Presidency under the provisions of Sections 44 and 45 of Act VII. of 1843.

tion, and bring it home to the accused, he would frame a charge accordingly and proceed to try the accused upon it. If he found a statement of facts which if proved would not constitute an offence, or would not serve to convict the accused of it, he would dismiss the case and discharge the prisoner. If from the informations and depositions submitted, it appeared that an offence had been committed, and that the accused was liable to strong suspicion, but could not be pronounced positively guilty or not guilty without further evidence, which evidence it appeared from the previous proceedings might be obtained from persons indicated therein as having knowledge of the facts, the Judge would notify to the Police the points on which further evidence was required to complete the chain, indicating the parties whom it would be proper to examine, and would commit the accused to custody or bail him till such further evidence could be had, and then proceed according as the evidence might appear on the whole, *primâ facie* to be sufficient or not. If he should determine to put the accused on his trial after having proceeded in this manner, we do not see why he should be less capable of conducting the trial with "calmness and impartiality" than if he had entered upon it at once after he had perused the informations and depositions sent up at first, or than the Session Judge is, under the present system, when after having made himself acquainted with the facts of the case by perusing the examinations taken by the committing Officer, he proceeds to arraign the prisoner on the charge deduced therefrom.

13. It is meant no doubt that the Judge, under such circumstances, is liable to a preconceived bias, a prejudice,—that his mind is likely to be occupied with a pre-established notion of the prisoner's guilt. We admit that the mind of a Judge ought not to be pre-occupied with opinions respecting the matter which he is to investigate acquired extra judicially before the judicial investigation begins. But the proceedings in question are properly the beginning of the judicial investigation and not something anterior to it. The Judge sitting on the bench of justice forms an opinion, a provisional opinion, upon evidence submitted to him which has yet to be tested by a solemn trial—such an opinion, as it appears to us, cannot with any propriety be called a prejudice or prejudgment, more than the provisional opinion formed by a Judge or Jury upon the evidence adduced against the prisoner before he has entered on his defence. The Judge and Jury cannot but form some opinion—if the opinion is to this effect, "as far as the case has gone the prisoner appears "to be guilty," are they no longer a fair and impartial tribunal because their opinion is biased by what they have heard? Biased their opinion is no doubt, but in that way which makes it incline to what is probably the truth, and the opinion is provisional depending upon what is still to be heard.

14. It is unnecessary to pursue this argument as we are not going to propose at present that cases shall be sent directly from the Police to the Session Court "without a previous sifting and arrangement of the "evidence by another responsible officer and a regular commitment for "trial upon specified grounds, after such preliminary enquiry." We are however going to propose that it shall be competent to the Session Judges to amend the charges or indictments framed by the committing Officers, as well in substance as in form, to adapt them to their own view of the effect of the evidence submitted as the ground thereof, whether the intention of the alteration shall be to aggravate or mitigate the charge; and the observations we have offered may tend to remove the objections which seem to have been entertained, to even this degree of interference on the part of the Judge, before the prisoner is brought to the bar of his Court to plead to the charge which he then announces to him.

In cases committed to Session Courts, Judges to have power to amend the indictments framed by the committing Officer.

Bengal Regn. XXVI. 1814, Sec. 10, cl. 3. Madras Regn. XV. 1816, Sec. 10, cl. 3.

15. What we propose is somewhat analogous to the proceeding of a Civil Court, which before taking evidence in the trial of a cause, considers and records the point or points to be established by the plaintiff and defendant respectively. This is done after the Court has made itself acquainted with the case to a certain extent by perusal of the pleadings and hearing the explanations of the parties or their pleaders. It has much the same amount of information as the Session Judge obtains in a Criminal case, from the record submitted to him by the committing Officer. In either case the Court is in a condition to ascertain and define the issues or questions to be tried. In the Civil suit if the issues are well stated in the pleadings, the Court will at once adopt that statement. If not it will record the issues to be tried according to its own view of the points in dispute. So also if the charge submitted by the committing Officer is expressed with sufficient distinctness and precision for the purpose of certainty, and describes the offence correctly according to the evidence, the Session Judge will proceed upon it. If not, we propose that he shall amend it by supplying what is defective and correcting what is erroneous, *so that the prisoner may be tried for what appears to be really the offence imputable to him.* We propose that the Judge shall amend the charge himself instead of remitting it to the committing Officer to be amended, according to the present practice. We do not see anything to be gained by the case being remitted to the committing Officer. If any discretion is left to him as to the amendment of the charge, it may still come up in a shape which the Judge may think improper, and if the Judge is authorized to prescribe to the committing Officer the amendment to be made, he may surely as well make it himself. The time which will be saved by the Judge, at once amending the

charge, is a good reason for this being the appointed course where nothing is to be gained by adopting the alternative.

16 The old rule in the Bengal Presidency required the Session Judge on first taking up a case committed for trial to "compare carefully the "written charge on which the prisoner is committed with the facts of "the case as stated in the Magistrate's roobukaree of commitment," and to cause the Magistrate to rectify "what may have been omitted," and it was laid down that a Session Judge might annul a commitment, and direct the Magistrate to re-commit the prisoner on a different charge. There is a difference of opinion now between the Calcutta Court of Nizamut Adawlut and the Court at Agra, as to the powers of the Session Judge in this respect. The Calcutta Court holds, that since the enactment of Act XXXI. of 1841, the Session Judge has no power to alter an indictment or charge once preferred by a Magistrate against a prisoner, *to the prejudice of the prisoner* The Agra Court maintains the former rule and practice.

Circular Order No. 135, dated 22nd February, 1833.

Construction No. 857, dated 24th January, 1834, II. 149.

Index to Constructions, p. 22, Note to No. 12, Cheape's Circular Orders, Appendix p. 1.

17. The Bombay rule on this point gives the Session Judge power to return a commitment, and to order the particular correction which he deems requisite, whether the effect will be to aggravate the charge or otherwise, and to do so at any time during the trial.

Regulation XIII. of 1827, Section 21, Clause 1. Section 38, Clause 4.

18. We are not certain of the rule, which obtains in the Madras Presidency when the charge framed by the committing Officer appears to be ill laid.

19. With reference to the principle upheld by the Nizamut Adawlut of Calcutta as above stated, we have to observe, that to amend the charge on which a prisoner is committed in a way to aggravate it, when, by a mistake of the committing Officer, it has been laid for a less offence than the evidence appears to warrant, will no doubt be "to his prejudice" in a certain sense. But not to amend the charge would be to the prejudice of public justice. By amending it the prisoner will not be prejudiced in his substantial defence, and we cannot see that in any respect injustice will be done him. And if public justice will be served without injustice to the prisoner by the measure proposed, there can, we think, be no valid objection to it. It may here be observed that the reason for not altering indictments in the English Courts, which appears to be chiefly insisted on, namely, that the charges therein bear on the face of them that they are charges found by the Grand Jury, which would be untrue, if the Courts took upon themselves to alter their tenor, is one that does not apply to the Company's Courts.

20. In the Bombay Presidency, as we have remarked, the Court of Session is empowered, at any time during the trial, to cause the charge to be altered, if it shall appear that it is not applicable to the facts of the case. We propose to make this rule general, so that, if the evidence on the trial turn out to be different from that which was given before the committing Court, but sufficient, if not refuted, to prove an offence against the defendant; the indictment may be altered so as to charge him with the offence, which the evidence serves to establish, instead of that with which he was first charged, and upon which he was arraigned.

Alteration of indictment after the evidence for the prosecution has been taken.

21. While we propose that the present system of commitment should be continued generally in respect to cases triable by the Session Courts, we do not think it necessary to maintain the rule laid down in Regulation IV. of 1823, of the Bengal Code, which directs that when the Officer, who has made a commitment to the Session Court, happens to be appointed to preside as Judge in that Court before the trial has taken place, the case shall not be tried by him, but shall be reserved to be disposed of under a special provision. The Madras rule is, that the Judge in such a case shall call upon the prisoner in open Court to state whether he is willing to be tried by him or not, and it is only when the prisoner objects to be tried by him that the case is to be reserved. Entertaining the opinion above expressed, we think that the trial may properly be held as a matter of course by the Judge of the Court, notwithstanding his previous intervention in the case as committing Officer.

Section 6.

Circular Order, No. 17, vol. 3.

Circular Order, 21st August 1833.

Indictment how to be framed.

22. We have now to consider how the indictment should be framed and what it should contain.

23. "An indictment," says Lord Hale, "should be a plain, brief and "certain narrative of an offence committed by any person, and of those "necessary circumstances that concur to ascertain the fact and its "nature." "The first object to be attained by an indictment," say the English Criminal Law Commissioners, "is certainty in law, or that "certainty as to the *corpus delicti*, which, assuming the allegations to be "true, enables the Court to pronounce the proper judgment. Certainty "in this respect is indispensable." "The sufficiency of the indictment "in this respect necessarily depends on its allegation of every thing, "which by definition is essential to the offence. No words can more "certainly describe the offence than those used in the definition, and

8th Report, p. 8.

"those or equivalent ones the indictment must contain." "With a view "to other objects it is requisite that the description of the particular "offence should not be confined to the precise words of the definition, "but should be amplified by a statement of particular facts and circum- "stances. It is, however, absolutely essential that the allegations, if true, "shall show distinctly that an offence has been committed by the defen- "dant." "Another species of certainty in an indictment," they observe, "consists in setting forth the facts with such circumstantial particularity "as may identify the offence which is the subject of trial with that sub- "mitted by the Grand Jury," "and may also notify to the accused the "facts and circumstances on which the legal charge is founded, and so "identify the offence alleged with that to which the proof relates as to "protect him against any subsequent charge in respect to the same "offence." "Another kind of certainty," they continue, "which may "be termed certainty in law and fact consists in such a description of "the charge, as independently of the use of any general technical terms, "shows on the face of the indictment that the crime has been commit- "ted. This involves both the kinds of certainty, that is, of legal and "circumstantial certainty as already described, and also the further "certainty by which the Court is enabled to see, not only that an "offence has been committed, and that the facts are sufficiently detailed "for the purpose of defence and identification, but *also* that the very "facts detailed constitute the offence in point of law."

24. The Commissioners justly observe, that whilst circumstantial particularity within certain limits is essential, great inconvenience and even mischief would result from the enforcement of rigid rules, requiring the circumstantial description to be satisfied by precise proof. It would, they conceive, be inconvenient and impolitic to require even the time of committing an offence to be proved precisely as alleged. On the other hand, referring apparently to the English practice, which insists on the indictment being minutely circumstantial, particularly as to time and place, but in effect treats the statement of those particulars as merely formal and insignificant, they lay it down as "a principle that "cannot be doubted, that no certainty in circumstances ought to be "required, which is not to be regarded as truly made and for a legal "object," observing that "the requiring a formal degree of precision, "which may be wholly disregarded, cannot but be looked upon as mat- "ter of vain affectation, unworthy of the dignity of the law."

25. They propose as "consistent with the object to be attained by "circumstantial certainty," and as a means of obviating the difficulties likely to arise from the rigid requirement of proof of the circumstances

alleged, "that the rules as to mere circumstantial certainty should be "regarded as directory only," "that Grand Juries should be directed "to state such circumstances only, and with no greater precision than "accorded with the evidence." Circumstantial allegations, especially those of time and place, would then, they think, cease to be unmeaning, and it would rarely happen that the accused was not sufficiently apprized of the particulars of the charge to be enabled to meet it, and afterwards avail himself of the verdict, should a second prosecution be instituted in respect of the same offence. Accordingly in the act of procedure they have introduced articles declaring that the provisions as to the specification of time and place "are to be deemed to be directory only "in order to give more effectual information to the defendant, and for "better identifying the offence," and that "no false or defective state-"ment of the time or place shall vitiate the indictment," "unless a "specific allegation of the time or place be material to the description "of the particular offence charged," &c.

Articles 27 and 30, Chapter II., Section 2, 8th Report, p. 78.

26. Now what we propose is, that the indictment shall be "a "plain, brief, and certain narrative," framed upon the evidence before the committing Officer, of the substantial facts laid to the charge of the defendant, and of the significant circumstances which concur to characterize those facts, and to make it apparent that they constitute an offence or *corpus delicti*, concluding with an averment expressed as nearly as possible in the words used in the Code respecting the intention, &c., such as will determine the offence of which the defendant is accused, and bring it within the definition in a certain Clause of the Code, or with alternative averments (instead of several Counts) answering to the descriptions of several cognate offences defined in different Clauses of the Code, according as the evidence admits of the offence being designated positively or otherwise, with reference to the intention or other distinguishing feature determining the character of the offence being clearly developed or not. We mean that a commitment ought not to be made unless the evidence which has been taken presents a state of facts and connected circumstances, which, if proved, constitute an offence according to the definition in a certain Clause of the Code, or which constitute an offence, which may fall under that Clause, or under one or other of several Clauses according to the discovery which shall be made of the intention, &c., on trial, and that, when a commitment is made, the indictment shall be framed so that if the substantial facts and adjective circumstances alleged in it are proved on the trial, and if no exception is established, the Court will be able, upon those facts and circumstances, to convict the defendant of some offence of which by the indictment he has had notice sufficient to admit of his adapting his defence to clear himself of it.

In the Appendix to the 8th Report of the English Criminal Law Commissioners, p. 210, the following suggestion is offered by M. D. Hill, Esq., Queen's Counsel, respecting the offences of larceny and receiving stolen property: "As the two of-"fences stand in the same "class of crimes, and are "visited with the same penal-"ties, there appears no rea-"son why a form of indict-"ment should not be estab-"lished, laying the charge in "the alternative, so that if the "Jury should be convinced "that the prisoner obtained "his possession either by "larceny, or by receiving the "property, knowing it to be "stolen, they might convict "without being called upon "to find which branch of "the alternative had been "proved."

27. By the Regulations of Bengal and Madras when a prisoner in a case, triable by the Session Court, confesses the offence laid to his charge, or confirms a former confession before the committing Officer, that Officer is required, notwithstanding, to summon the witnesses and to cause their attendance before the Session Court to be examined in the same manner as if the prisoner had denied the charge. The Bombay Regulation appears to require the same, it being laid down that confessions before any authority different from that by which the trial is held shall be deemed of weight according to the degree of corroboration they may receive before the Court. It seems to us that a full and circumstantial confession such as is described below, in treating of confessions given before the Session Court, tested by close interrogation in the manner there mentioned, and so complete in its account of the matter of fact, that it would be sufficient evidence of it if the relation were given by a witness, ought to be held sufficient for commitment. Of course corroborative evidence is desirable, and ought to be had, if possible; but it appears to us that where there is independent proof of an offence having been committed, as there will be generally by the deposition of the complainant, a plenary confession deliberately made by a party before the committing Officer, avowing his agency in it, and detailing the particulars, renders an extended inquiry unnecessary. If for example A deposes to the fact that B was found dead at a certain time and place, his death having been caused apparently by certain wounds inflicted on him, and C confesses that he inflicted those wounds upon B, intending to murder him, relating circumstantially and in detail all that passed, and adhering to his statement through a close cross-examination upon all the particulars, we see no need for further enquiry by the committing Officer. It may be proper for him, however, to summon the witnesses named by the prosecutor, as having knowledge of the facts, to attend before the Court of Session to give evidence if required.

Confessions before Magistrate or other committing Officer.
Bengal Regulation IX. 1793, Section 6.
Madras Regulation X. 1816, Section 11.

Bombay Regulation XIII. 1827, Section 27, Clause 2.

28. We proceed to offer some observations and suggestions as to the preliminary communications which should pass generally between the Magistrate or other committing Officer, and a party brought before him as an offender.

Preliminary communications between a Committing Officer and a party accused of an offence.

29. By the Regulations of Bengal and Madras, as well as by the English Law, it is directed that the defendant shall be *examined*, and this, we apprehend, is intended also by the Bombay Regulation.

Bengal Regulation IX. 1793, Section 5.
Madras Regulation X. 1816, Section 9.
Bombay Regulation XIII. 1827, Section 37.

30. There seems, however, to be no definite rule as to the manner of examining the defendant, and the extent to which the examination may be pursued. But it appears to us that this is a part of procedure, which it is very necessary to regulate uniformly.

31. We would recommend for imitation the rules on this subject contained in the Code of Procedure for Louisiana, prepared by Mr. Livingstone, who appears to us to have hit upon the right principle, and to have drawn the line justly between excessive indulgence to the prisoner and excessive anxiety to draw his condemnation from his own mouth. The Article we refer to is as follows:

" *Article* 173.—The Magistrate shall then proceed to the examina-
" tion of the person accused in the following manner:

" 1st. He must be informed that, although he is at liberty to an-
" swer in what manner he may think proper to the questions that shall
" be put to him, or not to answer them at all, yet a departure from the
" truth, or a refusal to answer without assigning a sufficient reason,
" must operate as a circumstance against him, as well on the question of
" commitment, as of his guilt or innocence on the trial.

" 2d. The Magistrate shall next put the following interrogatories
" to the person accused :

" Where were you born ?

" Where do you reside, and how long have you resided there ?

" What is your business or profession ?

" Where were you at the time the act (or omission) of which you
" are accused is stated by the witnesses to have taken place ?

" Do you know the persons who have been sworn as witnesses on the
" part of the accusation, or any, and which of them, and how long have
" you known them ?

" Give any explanation you may think proper of the circumstances
" appearing in the testimony against you, and state any facts that you
" think will tend to your exculpation.

" 3d. If any writing or any article of property be produced in
" evidence, it must be shown to him, and he must be asked whether he
" recognises it.

" 4th. The answers of the accused to the several interrogatories
" shall be reduced to writing by the Magistrate, or some one by his order.
" They shall be shown or read to the accused, who may correct and
" add to them ; and when made conformable to what he declares is
" the truth, may be *signed* by him ; but if he refuses to *sign*, his reason
" shall be stated in writing, as he gives it, by the Magistrate himself ;

" and the examination shall be signed and certified by the Magistrate, " whether the accused sign it or not. This examination is not to be " on oath."

32. In support of the above suggestion we beg to quote from the Westminster Review the following observations of Mr. Sheriff Alison, the text writer on the Criminal Law of Scotland, referring to the practice which obtains under that law : No. 34, page 20.

" The principle of law and the rule of common sense is, that every " deed done, and every word spoken by the prisoner, subsequent to the " date of the crime charged against him, is a fit subject for the consider- " ation of the Jury, and that, if duly proved, it must enter into the consi- " deration of their verdict. Of course among the circumstances which " may be of weight either for him or against him, none can be more " material than what he deliberately said himself when brought before " the Magistrate for examination. If the story then told is probable in " itself and agrees with what the witnesses have proved, on those parti- " culars in which it is susceptible of confirmation, it is as material a cir- " cumstance in his favor, as if it be absurd or incredible and contra- " dicted by their testimony, it is a circumstance of weight against him. " If the prisoner chooses to decline any or all of these questions, he is " perfectly at liberty to do so, and no compulsion whatever can be " legally employed to compel him to speak out; but on the other hand " the prosecutor is entitled to have the question, and the fact of the " prisoner's having declined to answer it put down in the declaration ; " a thing which is constantly done in practice, and by which it fre- " quently happens that the most important presumptions are obtained " against a prisoner; for certainly nothing in general tells more against " a prisoner with a jury, or any body of sensible men, than a refusal to " answer all the questions which have any bearing on the crime with " which he is charged. A declaration therefore is in general as great a " benefit to an innocent, as it is a disadvantage to a guilty person; and " in both cases it conduces to the great ends of Criminal Law, the con- " viction of the guilty and the acquittal of the innocent."

Attestation of confessions made before a committing Officer.

33. We shall now consider the question upon what attestation a confession made before a committing Officer ought to be received as evidence by the trying Court.

From Deputy Secretary to Government of India, 15th June 1835.
From Secretary to Government of India, 11th January 1841.

34. On this subject two references have been made to the Law Commission from the Government of India as noted in the margin.

35. The last reference was occasioned by a proposal of the Government of Bombay on the recommendation of the Sudder Foujdaree Adawlut of that Presidency to repeal the provision of the Bombay Code, which requires the confession of a prisoner to be authenticated by the certification and signature of two witnesses, who are to be held in attendance at the final trial, and to allow the confession to be admitted at the final trial when it is authenticated by a European authority, and the trying authority is satisfied of the identity of the authenticating Officer's subscribed attestation.

36. The Government of India had previously consulted the Governments of Bengal, Madras, and Agra, upon the proposed change in the Law, as a general measure, and the papers transmitted to the Law Commission, contain the opinions of those Governments and of their Sudder Courts upon the proposed change, also Minutes by Mr. Amos and Mr. Bird.

Bengal Regn. VI. 1793, Section 6. Madras Regn. X. 1816, Section 10.

37. It appears that the provision in the Regulations of Bengal and Madras requiring confessions to be attested by witnesses was introduced in order to satisfy the Mahomedan Law of evidence, a reason which will not exist if the Penal Code shall be enacted. At present under the Laws of both Presidencies the Courts are authorized by particular Regulations to set aside the rules of evidence prescribed by that Law, and the Madras Sudder Judges have said that they consider the Courts to be now released altogether from the obligation of observing them, and that in practice they generally follow the English Law of evidence. In cases of Thuggee the Mahomedan Law is dispensed with generally in all the Presidencies. In the Presidency of Bombay it has not been referred to at all since the introduction of the New Code in 1827.

Bengal Regn. XVII. of 1817. Madras Regn. I. of 1818.

18th July 1839.

Extract of Report from Mr. Greenhill, Judge of the Sudder Court, enclosed in letter from Secy. to Govt. Bombay, dated 30th July, 1840.

Register Foujdaree Adawlut to the Chief Secy. to Govt. Fort St. George, dated 20th November 1840.

38. It is stated that under the Bombay Regulation the attesting witnesses to a confession "need not know its content, and yet if the " prisoner on his trial denies having made it or signed it, the attestation " of the Magistrate is not legally sufficient to the fact, but the witnesses " must be called." The Judges of the Foujdaree Adawlut at Madras say also that the attesting witnesses to a confession "may not and need not " know the contents, that is to say, all the material facts declared by a " prisoner in his confession, it is sufficient that they prove at the trial that " the paper before the Court is the record of the confession of the prisoner, " that it was fairly and voluntarily delivered, and that it was read over " and signed, or marked by the declarant in the presence of the said " witnesses." They add that the Court rely most upon the signature of the Magistrate at the foot of the declaration as proof of its having been

duly taken. It would appear that under the Bengal Regulations also the witnesses are held to be requisite especially to prove the record, "under the Regulations," say the Nizamut Adawlut at Calcutta, "no paper can be "placed on the record of a criminal trial until the same shall have been "established by evidence; and by the Mahomedan law two witnesses "are necessary to establish such proof. The practice in the Criminal "Courts is in conformity to the law."

Register Nizamut Adawlut to Secretary to Government Bengal, of 30th October 1840.

39. The change is proposed by the Bombay authorities, on the ground that the provision in question is unnecessary, and that it is a cause of vexation and inconvenience. The same alteration of the law was proposed on similar grounds by Mr. Evelyn Gordon, when Commissioner of the Moorshedabad Division, whose suggestion to that effect is the subject of the first reference above adverted to. A strong representation to the same effect we find in a paper written by Colonel Sleeman, in the records of the Law Commission.

On secondary evidence without date. Received 6th November 1837.

40. We think there is ground to believe that the present practice is vexatious, though the inconvenience arising from it must ordinarily be much less considerable than it was formerly, now that the Courts of the Magistrates and other Committing Officers and the Session Courts are commonly at the same station. The question then arises, is there any advantage in the present practice to compensate for the inconvenience which attends it? Is it necessary for any reason to continue it?

41. First with regard to the verification of the record, we think that when a committing Officer sends up to the trying Court the record of a confession given before him, his attestation thereto ought to be received as the best proof of the authenticity of the record, and that the evidence of witnesses for this purpose is quite unnecessary. Even now, it seems, when witnesses to confessions depose to their authenticity it is not their evidence, which is chiefly relied on by the Court, but the attestation of the committing Officer. The record is not received as authentic so much because its identity is proved by persons who were casual bystanders when the confession was given by the prisoner, or when it was read over to him, and were called upon to be witnesses when he signed it, but because it bears the attestation of the committing Officer. The Court indeed would not be less satisfied of the genuineness of the record if there were no witnesses to it. For what then are witnesses necessary? Is it to prove that the confession was duly taken, and that the record of it is complete? We are of opinion, that the committing Officer is entitled to such credit that the facts, which he certifies by his attestation, ought to be taken for true without the evidence of witnesses.

If for example, the written examination of the prisoner attested by the committing Officer, bears on the face of it a certificate that before he delivered his confession he was cautioned by that Officer, that if any one had told him it would be better for him to confess, or worse for him if he did not, he must pay no attention to it, and that notwithstanding, he freely gave his confession, and that the examination was taken in the presence and in the hearing of the committing Officer, and was written down in the words of the prisoner and contains the whole of his statement, we think there should be no hesitation in giving credit to the record to this effect on the attestation of the committing Officer. It appears that the law of England gives this credit to Magistrates and will not admit parole evidence against written statements duly authenticated by such Officers. It presumes them to be trustworthy and incapable of falsifying the record, and what they certify is therefore received as true. We do not see why we should proceed upon a different principle, why we should rather presume that a Magistrate is not to be trusted for giving a true and perfect record of all that passes, and therefore provide witnesses to supply what he may have omitted.

Phillipps, p. 446, Note 4.

42. There remains the question, is it necessary that attestation of the committing Officer shall be formally proved if witnesses to the confession are dispensed with? All that is really requisite is, that the Judge shall be satisfied that the signature of the committing Officer is genuine. At present the attestation of the Magistrate is not proved at the trial, and yet, according to the Madras Foujdaree Adawlut, the Courts rely upon it more than upon the evidence of the attesting witnesses. It appears to be admitted without a doubt of its genuineness upon the strength of the circumstantial and collateral evidence with which it is accompanied; upon the same evidence by which the Judge is satisfied that the record of the prisoner's commitment is genuine, and feels himself warranted in acting upon it. This indirect evidence would not lose its force if the evidence of witnesses to the confession were dispensed with, and we do not imagine that Judges would feel less satisfaction in relying upon it in that case than they do under existing circumstances. We do not see why there should be any more question of the propriety of a Session Judge accepting the attestation of the committing Officer to a confession without direct proof of his signature, than of the Nizamut Adawlut accepting the attestation of the Judge without proof of his signature in a case referred for the sentence of that Court, in which it may be, that the conviction of the prisoner is founded mainly or entirely on a confession made before the Judge. The reason that the attestation is allowed to be received by the highest Court in cases of the greatest importance without proof, is, we suppose, because it comes before the

Court under circumstances which afford no room for doubt of its genuineness, and for the same reason, we think, that the committing Officer's attestation to a confession made by a prisoner before him, ought to be admissible without proof, by the Judge to whom the prisoner is committed for trial. If the Judge has a doubt on the point, of course it should be open to him to call for proof to satisfy himself.

43. So also it should be open to the Judge generally, as suggested by Mr. Amos, where there are *interlineations*, or other unusual, or informal circumstances, or any matter apparent in the examination which seems to require explanation, to call for the attendance of the Officer, who took down the examination in writing, or even occasionally of the committing Officer himself, if the Judge, in the exercise of his discretion, should deem it necessary to examine him personally. **Minute, 20th Aug. 1840.**

44. It should be prescribed as a general rule, as proposed by Mr. Amos, that the examination of the prisoner shall contain a declaration under the hand of the committing Officer, that the same has been taken in his presence and in his hearing, and contains accurately the whole of his statement. We do not think it proper to require a positive certificate that it contains the very good words of the prisoner, though these should always be taken down as nearly as possible.

45. We are persuaded that it is not when he is before the committing Officer that a confession is likely to be extracted from a prisoner by promises or threats: but it is not unlikely that a prisoner may come before the committing Officer prepared to make a confession under the influence of promises or threats previously held out to him; or under the impression of previous ill-treatment, and the fear of a repetition of it, to confirm a confession extorted from him. Upon this point very proper cautions are given to the Magistrates in a Circular Order of the Nizamut Adawlut at Calcutta, in which, among other things, they are particularly directed to satisfy themselves, by making prisoners tell their own story, that their statements are deliberate and spontaneous. **No. 73, p. 5, dated 23d August 1810.**

Confessions made by prisoners when in charge of the Police.

46. There is too much reason to believe that confessions are often obtained in this country from prisoners in charge of the Police by means of actual ill-treatment or threats of it, and probably they are sometimes false; but it may be presumed they are much oftener true. Notwithstanding this presumption, in order to take away the motive for ill-treatment, we think it advisable that such confessions should be rejected absolutely whenever it appears that they were extracted from the prisoners by any undue means, and even where there is no evidence of such undue means

being used, we are of opinion, that a confession taken before the Police, which the prisoner, when he comes before the committing Officer, disavows, should not be credited without corroboration. But, we think, that the prisoner should be liable to examination upon such confession in order to draw forth as many particulars as possible, the truth of which can be proved or disproved by independent evidence, and which being proved or disproved will be in some degree tests of the truth or falsehood of the whole confession. Supposing it false every thing elicited by such examination will assist to clear the prisoner. Supposing it true, the cause of justice will be served by any evidence that may be obtained through such examination, tending to establish its truth. It will be better for the innocent to be examined, and worse only for the guilty. The principal security, say the Calcutta Nizamut Adawlut, against the practice of procuring false confessions, will consist in the careful investigation by the Magistrates and Courts of the cases coming under their cognizance. The investigation will be greatly more effectual if it include the examination of the prisoner taken in the manner proposed.

Circular Order No. 73.

47. If confessions before the Police are not to be taken as conclusive by themselves, if they are required to be particular and circumstantial, if the prisoners are cautioned when they come before the committing Officer, that they need not be influenced by any promises or threats previously held out to them, and are made to tell their own story first, and are afterwards examined as to any difference there may be between their present statement and the confession alleged to have been given by them before the Police, and a collateral inquiry is also made into any of the particulars and circumstances related in the confession upon which independent evidence can be had, it appears to us that the best means will be used to ascertain the truth. There will be no risk of a prisoner being convicted on a false or pretended confession. On the other hand a confession given before the Police, which stands the test of such a sifting may well be considered as entitled to full credit.

Evidence on behalf of the accused when to be taken by the committing Officer.

Section XVIII.

48. By Regulation VIII. of 1830, of the Bengal Code, the committing Officer has a discretion to take evidence on behalf of the accused. There was a similar provision in Regulation XIII. of 1832 of the Madras Code, but it was rescinded by Act VII. of 1843, which in constituting the Session Courts ordained that permanent Sessions should be held for the speedy trial of all persons accused of crimes cognizable by them. It was a proper provision when a prisoner committed for trial might have to lie in gaol for months, perhaps for six months between the periodical Sessions of the Circuit Court. This reason for it is removed when the trial may follow

the commitment immediately, the Committing Court and the Session Court, generally, being at the same station, and the Session Court being ready to sit day after day as cases come before it. On this ground, and in order to expedite the proceedings in Session cases, with a view to give relief to prosecutors and witnesses by shortening their attendance, the said provision was annulled with respect to Madras, and the committing Courts were authorized to make commitments upon the depositions given before the Magistrate, or the Police, when confirmed on oath before them, if they were satisfied thereby, that there was evidence to sustain the charge. The Governor General in Council, however, agreed to these provisions with some hesitation, expressing an opinion "that "the proceedings of the lower Officers should be extremely careful and "nearly complete, and that the time of the higher Courts should not be "taken up excepting with cases in which there may be sufficient reason "to anticipate a conviction." And upon the more mature consideration we have given to the subject, we are now of opinion, that the committing Courts should examine the prosecutor and the witnesses in support of the charge afresh, and in a careful and searching manner, allowing them to be cross-examined by the defendant, and should not commit the defendant unless *primâ facie* the evidence so taken be, such as, to use the words of the existing Law of Bengal, affords "a reasonable probability "of conviction," that is to say, unless it be positive, consistent, and apparently credible and sufficient (if it shall not be refuted or discredited by evidence adduced by the defendant on the trial) to make good the charge. To investigate the case more closely, and particularly to take evidence counter to that for the prosecution, it appears to us is in a manner to anticipate the trial, which is the proper function of the Session Court. We think that this should not be allowed in general. We are of opinion, however, that it is expedient still to leave a certain discretion to the committing Court, under a caution to use it very sparingly, and only upon special grounds, and when it appears highly probable from the examination of the defendant, that the evidence he offers will manifestly prove the charge to be false. It does not appear to us that the committing Court ought ever to take evidence from the defendant under this discretion, except in particular cases,* unless the witnesses be actually in attendance or can be brought immediately. If the witnesses are to be summoned, the case had better go before the Session Court, and the witnesses be summoned to give their evidence there. The Session Court, in general, will be ready to proceed with the trial as soon as the witnesses can attend.

* The exception will be where the Sessions are not permanent, but are held periodically by a Judge from another station as at Pubna by the Judge of Rajeshaye.

49. The English law requires that the defendant shall be committed or held to bail in order to trial, if the charge against him "be supported

7 George 4, Chapter 64, Section 1.
9 George 4, Chapter 74, Section 2, for India

"by positive and credible evidence of the fact, or by such as, if not ex-"plained or contradicted, shall in the opinion of the Justice or Justices, "raise a strong presumption of his guilt." The law contemplates evidence being adduced on behalf of the person charged, but it provides that "no Justice shall be bound to hear evidence" on his behalf, "unless "it shall appear to him to be meet and conducive to the ends of justice "to hear the same." It is to be observed, that under the English system the trial takes place at periodical Assizes, and in general does not follow the commitment until after some interval, during which it would be a serious hardship to the defendant to be kept in gaol when he can adduce evidence which, when it is heard judicially, will probably be sufficient to acquit him. And it would seem that the law intends, that exculpatory evidence shall be taken with a view rather to the defendant being admitted to bail in cases in which unless there be evidence weakening the presumption of his guilt he ought to be committed to prison, than to his being discharged by the Justice. Chitty says, "If there be an express "charge of felony on oath against the prisoner, the Justice cannot wholly "discharge him, but must bail or commit him, and it is said, that if a "person be killed by another though it be *per infortunium* or even *se* "*defendendo*, which is not properly felony, the Justice ought not to dis-"charge him, for he must undergo his trial, and therefore must be sent "to prison or admitted to bail. And in modern practice, though excul-"patory evidence is received at the instance of the prisoner, and certified "with the other depositions, unless it appear in the clearest manner "that the charge is malicious as well as groundless, it is not usual for the "Magistrate to discharge even when he believes him to be altogether "innocent."

Chitty's Criminal Law. I. page 89.

Exceptions to be pleaded before the Session Court in general.

50. We observed in our first Report on the Penal Code that the exceptions in Chapter III. are "to be alleged in defence and proved by "sufficient evidence." We meant that when an offence is charged against any person who can make out an exception that will absolve him from culpability, it is for the defendant to plead the exception and to adduce evidence to establish it, not for the prosecutor to negative the plea in anticipation. The committing Officer, however, ought not to commit in a case in which there is a palpable and indubitable exception, as when an offence is charged against a child who is manifestly under 7 years of age (Clause 64), or when the evidence necessarily taken in the preliminary investigation of the facts of the case unquestionably establishes some legal exception, as in the instances given in the illustration under Clause 70, the illustrations under Clause 72, and the like. It would be contrary to the truth to charge an offence when all the facts and circumstances taken together prove that the act committed, which by itself has the

appearance of being an offence, is indeed no offence in the eye of the law. And when circumstances are elicited which render it very likely that upon a view of the whole case it will be found to fall within a certain exception, the inquiry ought to be prosecuted to ascertain this point. But when such an exception is not patent on the face of the evidence to the facts upon which *primâ facie* the defendant is chargeable with an offence, and is not suggested by any circumstances which have transpired in the course of the preliminary inquiry into those facts, it does not appear to us that it should be made the duty, or that it should be left to the discretion of the Officer conducting the preliminary inquiry to prosecute his investigation, at the instance of the defendant, into facts which he alleges will bring the case within some exception defined in the Code. The defendant notwithstanding such allegation should be committed, and the indictment should be framed according to the evidence which has been taken, stating the facts as they appear in that evidence, and inferring the intention from the attending circumstances.

Extenuating circumstances also in general to be pleaded before the Session Courts.

51. So likewise, in cases of voluntary culpable homicide, for example, unless the preliminary inquiry into the facts elicits evidence of extenuating circumstances which manifestly reduce the offence to one of the three mitigated descriptions enumerated in Clause 295, we think that the indictment should charge the defendant with the offence of "voluntary culpable homicide," according to the definition in Clause 294, of the description designated in Clause 295 as "murder," leaving it open to the Court to convict of "murder," or of one of the mitigated descriptions of homicide, as the evidence shall turn out on the trial. The rule in force, at present, in the Presidency of Bengal, directs that where it is doubtful whether the offence amounts to murder, or only to culpable homicide the commitment shall be for murder. Where the mitigation is manifest by the evidence taken in the preliminary inquiry, the indictment should be framed accordingly, stating the circumstances which constitute the mitigation, and charging the offence specifically agreeably to the definition under which it appears to fall.

Circular Order, No. 54, 16th July, 1830, page 16.

Indictment to be communicated to the defendant. List of witnesses to be delivered and the points they are to prove to be stated by the defendant.

52. As soon as the indictment is ready, it should be read and explained to the defendant in open Court, and a copy or translation of it should be furnished to him, in order that he may be prepared to answer to it before the Session Court, and he should be required* to deliver on the following day, (or after a longer interval if cause be shewn for delay) a list of any witnesses he may wish to be summoned to

* Judicial Evidence, 3, 378.

Note.—Bentham speaking of the plea of *alibi* being very frequently supported by perjury, suggests as a remedy, that notice might be required to be given, a certain number of days before the trial, of the names and places of abode of the witnesses intended to be adduced to this point, a practice, he remarks, already established, as to all evidence on the side of the prosecution in cases of treason, and much less liable to be abused in this instance

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give evidence on his trial before the Session Court, and at the same time to state the points they are to prove respectively, with reference to the indictment, according as his intention, which he must then declare, may be to plead specially an exception or mitigation, or to plead generally not guilty, or, admitting the facts, not guilty of the offence charged upon them, on the ground of the absence of guilty intention, or otherwise.

than in that. A further remedy suggested by him, and as he thinks the only adequate one, is that there should be a power in the Judge to adjourn the trial when the plea of *alibi* is supported by suspicious or doubtful witnesses in order to afford an opportunity for more numerous and unexceptionable witnesses being brought to prove, if the case be so, that the first set were themselves, at the time, in a place other than that wherein they pretended to have seen the accused, or in some other way to disprove their story if it is untrue. This power, in the procedure we contemplate, the Courts will have. In Scotland, it appears, every defendant is bound by law to furnish the prosecutor two days before the trial, with his written defence, accompanied by a list of such witnesses as he intends to call.

Appendix (C) 8th Report, Criminal Law Commissioners, Article 1, page 367.

Arraignment and Trial.

53. At present in the Presidency of Bengal the prisoner is not arraigned before the Court of Session till after the examination of the prosecutor has been taken in his presence, apparently that he may be thereby apprized of the facts upon which the charge against him rests, these not being set forth in the indictment with sufficient distinctness to afford this necessary information. In the Presidencies of Madras and Bombay the indictments are much more specific. The rule in the Madras Presidency requires the result of all the examinations to be compressed into a brief statement of the nature of an indictment, in which are to be noted, if possible, the time *when* and the place *where* the offence was committed, and in cases of murder or wounding, &c., a description is to be given of the instrument with which the act was done. In the Presidency of Bombay the indictment must declare the precise act for which the prisoner is committed and the manner how and the time at which it is alleged to have been perpetrated. In both these Presidencies the prisoner is arraigned by the indictment being read to him, and he is required to plead to it, as the first step of the proceedings in the trial. It appears to us that this is the proper order of proceeding and we propose that it shall be followed generally.

Circular Order 31st January 1814.

Regulation XIII of 1827, Section 18.

54. When the defendant is arraigned he should be asked whether he admits or denies the facts alleged in the indictment, and if he admits the facts, whether he is guilty or not guilty of the offence thereupon charged against him, or has any exception or mitigation to plead. If he admits the facts but pleads not guilty of the offence charged against him upon those facts, or pleads specially an exception or mitigation—as, for example, in a case of homicide, if the defendant admits that the deceased died by his hand, but pleads not guilty of voluntary culpable homicide of any description, averring that the event occurred by mischance, without any intention on the part of the defendant to cause the death of the

deceased, or knowledge that he was likely to cause his death, by the act by which it was caused; or pleads by way of exception under Clause 76, that he did the act which caused the death of the deceased in self-defence, or by way of mitigation, under Clause 297, that he did the act which caused the death of the deceased on grave and sudden provocation given by the deceased by grossly insulting and striking him—the trial must proceed of course, but it will be directed more particularly to the ascertainment of the circumstances from which it may be judged whether the act was intentional or not, or whether it was done in self-defence; or on grave and sudden provocation.

55. By the English Law "if the accused confess the charge to be "true, the confession is to be recorded, and judgment is to be awarded "according to Law." But the Courts, as Blackstone observes, are usually very backward in receiving and recording such confession in capital cases and will generally advise the prisoner to retract it, and plead to the indictment.

Pleading guilty. Article XI., Section 2, Chapter V., Act of Procedure in 8th Report of Commissioners on Criminal Law.

56. The laws of Bengal and Madras on this point are the same, agreeing with that of England, they enjoin that the confession of a prisoner shall always be received with circumspection and tenderness, but it is evidently intended that if he deliberately plead guilty the proceedings shall go no further, the directions as to taking evidence applying to the alternative of a prisoner pleading not guilty—thus "or if he plead "not guilty, the evidence which he may have to adduce being all "heard," &c. But the Bengal Court of Nizamut Adawlut have ruled that if a prisoner plead guilty, the trial should proceed in the ordinary course as if he had pleaded not guilty, and there are decisions that a party cannot be convicted on his own confession solely, unless there be evidence to the actual commission of the crime which he confesses. This is laid down very expressly in a case of murder reported in the 4th Volume of Nizamut Adawlut Reports, in the words of one of the Judges, (the other concurring) as follows: "The guilt of the prisoner "is placed beyond all question by his own confession, but as no evi- "dence to the fact of the murder has been taken by the Commissioner, "the trial is incomplete." By the law of Bombay "a prisoner's con- "fession made before the Court in which he is tried is sufficient proof "for conviction, provided that on having the evidence in the case (or "such part of it taken before any competent authority, as if admitted "to be true would prove the charge,) read over to him, he confirms the "confession." By Mr. Livingstone's Code for Louisiana, it is provided that "if the defendant answer in the affirmative (to the question of "guilty or not guilty) it shall not be recorded until the Court shall have

Bengal Regulation IX 1793, Section 47. Madras Regulation VII 1802, Section 15.

Construction No. 650, 22d July 1831.

Case of Burkut Fuqueer, page 299.

Regulation XIII 1827, Section 37, Clause 2.

" explained its consequence and desired him to reflect, and if he wishes " it, to consult with his Counsel: if after this he persevere, the confes- " sion shall be recorded, provided there is no reason to suppose the con- " fession proceeds from insanity."

57. We are of opinion, that when the defendant pleads guilty, admitting the facts and avowing the intention charged in the indictment, and, upon interrogation, giving such a full account of the matter, as amounts to what Bentham calls a plenary confession, " mention being " made in it of every fact (psychological as well as physical) which is " necessary to complete the description of the offence" the trial need not proceed further. Bentham laying it down, that a " mass of confessorial " evidence amounting to a confession does of itself form a sufficient " ground of conviction," observes that it would be of no small utility in practice if a criterion was established to determine what is a complete confession. He suggests, that " this criterion be constituted by the ap- " plication of the process of interrogation judicially performed in so " much that be the mass of confessorial evidence, upon the face of it, " ever so correct, as well as complete, yet until, and unless, for the " assurance of its correctness as well as completeness, it has had that " security which it is not in the power of anything but the process of " interrogation to afford, let it not be considered as amounting in any " case to a confession, for any such practical purpose as that of conviction." He suggests another condition " that to amount to a confession, although " extracted by judicial interrogation, it ought to be such as would have " been sufficient to warrant a conviction had it been delivered by an " extraneous witness."

Rationale of Judicial Evidence 3, 107.

106.

58. The confession of a prisoner being thus tested by close judicial interrogation, and furnishing a body of evidence which if delivered by a witness would be held sufficient to warrant a conviction, as respects another person, ought surely to be sufficient to warrant the conviction of the person whose testimony it is, of the offence of which he deliberately declares himself to be guilty. To go on with the trial of the case after this, as if the prisoner had pleaded not guilty, it appears to us, would be indeed a work of supererogation, especially when the Court, in the evidence upon which the indictment was framed, has reason *a priori* to believe that the confession states the truth. When the confession is apparently not plenary as when there is no mention in it of some material fact deposed to by witnesses previously examined, or when there is some other discrepancy, which makes the Court desire corroborative evidence for its own satisfaction, it should of course be at liberty to continue the trial.

59. And when a prisoner has been committed for any offence on a plenary confession made by him to the committing Officer describing circumstantially the manner in which he committed the offence, although he may after all deny it and plead not guilty when formally arraigned before the Session Court, it appears to us that if the Session Court is satisfied from a perusal of the record that he gave his confession deliberately and with perfect consciousness, and that the interrogations of the committing Officer were sufficiently close and searching to detect simulation if the prisoner were from any motive falsely accusing himself, it may properly convict him upon that confession without further evidence of his guilt, the fundamental fact to which it refers, being proved independently by the deposition of the prosecutor alone or corroborated by additional evidence.

60. We propose to extend the rule contained in Section 30 of the Act VII. of 1843, now in force in the Madras Presidency to the other Presidencies with exception of one part. The rule requires that, when a prisoner is committed for trial before a Session Court, " the Session " Judge shall commence the trial immediately, and shall take the exami- " nation of the prosecutor, and of the witnesses for the prosecution, and " the defence of the prisoner, and the examination of the witnesses for " the defence, and if more witnesses have been previously summoned and " are expected to attend, or if the Session Judge thinks it necessary after " the commencement of the trial to call for further evidence, he shall " adjourn the proceedings, permitting the prosecutor and witnesses, to " return to their houses, unless he shall see special cause to detain them " in order to their being confronted with the other witnesses whose " attendance is expected."

Adjournment of proceedings after commencement of trial.

61. The exception, we think advisable, is that part which relates to the prisoner's defence and the examination of his witnesses. With reference to the provision, we propose for the alteration of the indictment after the case for the prosecution has been gone through, it is proper that the prisoner's defence should be reserved till it has been determined whether or not the original indictment is to stand. But it may often happen, that it will be no prejudice to the defendant to examine his witnesses called to speak to particular points contained in the evidence for the prosecution, and it should be left open to the Court to do so, when from a delay in the trial they might be subject to inconvenience by being detained, either upon the motion of the defendant himself, or upon his consenting to their being examined and released from further attendance.

Proceedings after the close of the case for the prosecution.

62. We propose, that after the case for the prosecution has been gone through, the Judge before calling on the defendant to make his defence, shall consider the evidence recorded, and determine whether to leave the indictment upon which the defendant was arraigned, unaltered, or to alter it under the authority we have before proposed to be given to the Judge, according to the turn the evidence has taken, so as to adapt the charge to it, and shall proceed accordingly, giving the defendant, in the event of his altering the indictment in substance, such time as may be necessary to enable him to meet the altered charge, where the alteration is made upon evidence of facts, or circumstances of which the indictment gave no intimation, and which the defendant could not have anticipated from the relation contained therein. In the event of such an alteration, the prisoner ought, of course, to be allowed to call witnesses other than those named in the list delivered by him to the committing Officer.

63. In other cases also, it should be at the discretion of the Judge upon good cause being shewn by the prisoner, to allow him to call additional witnesses, but the allowing additional witnesses should be regarded as a deviation from rule, for which a substantial reason must be recorded on the proceedings. When an application for additional witnesses is refused, the reason for refusing it should likewise be recorded.

Judgment.

64. Lastly, we propose, that on the conclusion of the trial the Court shall pronounce a judgment upon the defendant, acquitting him absolutely, or convicting him of the facts and intention alleged in the indictment, and adjudging him to be guilty of the offence which the facts and intention combined go to constitute; or if the circumstances are proved, which the law declares to be mitigatory, adjudging him to be guilty of the mitigated offence, noting in either case the particular clause of the Code to which the judgment refers; or if the averment touching the intention be alternative, adjudging him to be guilty of the offence constituted by the said facts, with that one of the alternative allegations, which the Court shall find to be proved, or if it be doubtful under which of two clauses of the Code, the offence constituted by the facts proved, properly falls, from the intention of the party not being distinctly discovered or otherwise, declaring him to be guilty under one or other of the two clauses between which the doubt lies.

Mode of trial before Session Courts.
Bengal Regulation VI. 1832, Sec. 4.
Madras Act VII. 1843, Sec. 32.
Bombay Regulation XIII. 1827, Sec. 38, Clause 6.

65. The Judges of Courts of Session in all the Presidencies have authority at present to avail themselves at their discretion, of the assistance of Assessors in the trial of criminal cases. As after the introduction of the Penal Code, there will be no occasion for the attendance of

Law Officers to assist the Judges, we think it very desirable that their place should be supplied generally by Assessors. It might be inconvenient, however, to make this obligatory all at once as a general rule, and we propose only that all persons arraigned before the Courts of Session shall be entitled to claim this mode of trial.

Vide p. 43, Report of Law Commissioners, dated 10th July 1841.

All persons arraigned before the Session Court to be entitled to claim to be tried with the aid of Assessors.

66. As intimated in a Note to our 2d Report on the Penal Code, we are of opinion that British subjects committing offences in any part of the Territories of the East India Company without the local limits of the criminal jurisdiction of Her Majesty's Courts, should be subject to the provisions and penalties of that Code in common with all other classes of persons.

Trial of British subjects, page 200.

67. In our Report, dated 4th November 1843, in which we recommended that British subjects in the Provinces should be made amenable to the jurisdiction of the Company's Courts for all offences, but such as are capital by the law administered by the Supreme Court, we proposed that such persons should have the right to claim a trial with the aid of Assessors and that one of the Assessors should always be a British subject. We would now suggest that when a person being a British subject is arraigned before a Court of Session, he shall have a right to claim that one of the Assessors, who are to assist at his trial, shall be a British subject when the number is confined to two, and that two of them shall be British subjects, when the number is more than two.

The law requires that the number of Assessors shall be two or more.

68. With respect to cases in which the offence charged against a British subject is punishable with death, we are of opinion, that it should be at the election of the defendant to be tried by the Judge and a Jury of his countrymen, or by the Judge aided by Assessors.

In capital cases British subjects to have the option of being tried by the Judge with a Jury, or with Assessors.

69. In our Report upon the Administration of Justice in the Straits' Settlements, while we recommended that all cases not capital, but above the jurisdiction proposed to be assigned to Magistrates, should be tried with the aid of Assessors, we said that we did not think it advisable under the circumstances of those Settlements to dispense with a Jury in the trial of capital cases, but suggested that if there were a difficulty in obtaining the attendance of 12 sufficient Jurors, the number should be reduced. We intimated at the same time, that we did not think it necessary to insist upon the verdict of the Jury being unanimous.

8th February 1842.

70. We now propose that the trial by Jury may be dispensed with unless it be demanded by the defendant. When a Jury is demanded,

Constitution of Jury.

we propose that no greater number than three Jurors shall be *necessary*. We think that the maximum number of Jurors should be nine. When the number does not exceed five, the verdict of the majority should be sufficient for the conviction of the defendant, *if the Judge concur in it*. Should the number of Jurors be six, the majority to convict should be four; if seven or eight it should be five ; if nine, six. *Without the Judge's concurrence* a verdict of conviction, we think, should not have effect unless it be unanimous. When the defendant is convicted by the unanimous verdict of the Jury, whether the Judge concurs in it, or not, or when the verdict of the majority convicts the defendant, and the Judge concurs in it, the case should be referred for the final judgment and sentence of the Sudder Court. When the verdict of the majority convicts the defendant, but the Judge dissents, the defendant should be acquitted, and also when the Jury are divided if the number of Jurors voting for conviction be not sufficient to constitute the prescribed majority.

Assessors.

71. In all cases tried with the aid of Assessors, we propose that, as at present, the decision shall be passed by the presiding Judge according to his own opinion, after considering the opinion of the Assessors, whether he agrees with them or not, if the case is one, in which he is competent to pass sentence. If the case is one, in which the Judge is not competent to pass sentence, it should be referred to the Sudder Court, as well when the Judge finds the defendant guilty against the opinion of the Assessors, as when both the Judge and Assessors agree in finding the defendant guilty; but the Judge should have power to acquit the defendant when he finds him not guilty, notwithstanding a contrary opinion delivered by the Assessors.

72. We have hitherto treated of cases in which indictments submitted to Courts of Session are proceeded upon by those Courts with or without alteration.

How the Session Judge is to proceed when an indictment is submitted without evidence sufficient to prove an offence against the defendant, but affording ground for suspicion.

73. When the indictment is submitted to a Court of Session and the Judge, on perusal of the accompanying record, finds that the evidence, though it affords ground for strong suspicion, is insufficient to prove any offence against the defendant; we think that he should be at liberty to record his opinion to that effect, and thereupon to pass an order for the discharge of the defendant. As the defendant, who is thus discharged without a trial, will be liable to prosecution anew on the same charge, the Judge should exercise the greatest caution in taking this course, lest the defendant should be kept without reason under the dread of a fresh prosecution. If the evidence is insufficient apparently from defective

investigation, the Judge should make a note to this effect in his proceedings and communicate the same to the committing Officer in order that the Magistrate may cause a more searching inquiry to be made immediately.

74. If the Judge is of opinion not only that the evidence taken by the committing Officer is insufficient to prove an offence against the defendant, but that the defendant is probably innocent, and if the defendant demands a trial in order that he may have the advantage of a full acquittal if the charge is not proved, we think that the trial should take place.

When the evidence leads to the presumption that the defendant is innocent.

75. On this point it was formerly ruled by the Bengal Nizamut Adawlut, that Session Judges are competent to cancel commitments made by the Magistrates, the Judges being required to use this power with the greatest caution and to report each case specially to the Nizamut Adawlut; but we find a subsequent Construction, which seems to restrict that rule, though the exact effect of the Construction is not clear. The following is the rule in the Presidency of Madras:

Circular Order, No. 111, dated 20th July 1832.

Construction No. 1122.

" Whenever it may appear to a Judge on Circuit, that any persons " brought before him for trial have been committed on insufficient grounds " it will be proper, that the Judge should call the trial, and having " declared that there were not sufficient grounds for proceeding to trial, " should order the discharge of the parties."

Foujdaree Adawlut's Circular Order, 26th November 1821.

" It will be proper, however, that the Judges of Circuit in all cases " of this nature, should report the grounds of their not proceeding to " trial for the information of the Court of Foujdaree Udalut."

76. The committing Officer should not have power of his own authority to withdraw an indictment and cancel a commitment made by him, but if after making a commitment and submitting an indictment to the Session Court, he obtains new evidence with reference to which he thinks it proper to revise the indictment, it should be competent to him on such grounds to apply to the Session Court to return the indictment in order that it may be revised and amended if necessary, and to remand the defendant to be present at the further examination intended, and the Session Court should have power to pass orders accordingly.

Committing Officer not to withdraw an indictment, but may apply to the Session Court to return it for revision when new evidence has been obtained.

77. When it appears to the Judge of a Session Court on perusal of the record of a case committed to him for trial that a person has been sent up as a witness, who ought to be arraigned at the bar as a party in the

How the Session Court is to proceed when a person has been sent before it as a witness, who ought to be arraigned as a party in the offence.

offence, we think he should have power to include him in the indictment immediately, or to send back the indictment to the committing Officer in order that he may be included in it with or without additional evidence. The latter we apprehend to be the course followed in practise at present. In such a case the examination of the party on oath before the committing Officer would not be used as evidence against him.

Perjury and Forgery, &c.

78. There are special rules in all the Presidencies for bringing before the Session Courts persons accused of perjury and subornation of perjury and forgery.

Circular Order, No. 169, Vol. 2.

Regulation XXVII. of 1817, Section 14, Clause 3.

Regulation II. of 1807, Section 6.

Construction No. 572, Circular Order No. 14, Vol. 2.

79. In Bengal, in cases of perjury before the Civil Courts whether before a Zillah or City Court, or a Subordinate Court, it has been ruled that the commitment according to Clause 2, Section 14, Regulation XVII. 1817, must be made by the Civil Judge, and that the case cannot be tried by him in his capacity of Session Judge, but must be brought before some other Judge. When perjury is committed before the Sudder Court, the party, it seems, may be brought to trial upon the order of that Court. In perjuries committed before a Session Judge, he may direct the Magistrate to commit the party and may try him upon the Magistrate's commitment. The last rule is applicable expressly to cases of forgery, and generally, it would appear, the rules relating to perjury are considered applicable to forgery.

Circular Order, 12th February 1834.

Regulation VIII. 1829, Section 3.

80. In Madras, on the contrary, the Sudder Court has construed Section 5, Regulation VI. of 1811, corresponding with Section 5, Regulation II. of 1807, of the Bengal Code, as requiring commitments for perjury to be made in all cases by the ordinary committing Officer, under the direction of the Court before which the perjury took place. All Courts, Civil and Criminal, are authorized to send persons deemed to be guilty of perjury in proceedings before them to the ordinary committing Officer in order to their being brought to trial before the Session Court. These rules apply equally to forgery.

Interpretation, 6th August 1832.

81. In Bombay, in regard to perjuries committed before a civil authority, it is directed that such cases are to handed up to the Session Judge by the civil authority, without the intervention of the Magistrate. When a forgery is discovered during the trial, or after the completion of a civil suit, the case is to be sent to the Magistrate " to be proceeded with by him in the " same manner as when a case is returned" by a Session Court, " for the purpose of having the prisoners committed upon any charge " the Judge may deem expedient."

Regulation III. 1801, Regulation XVII. 1817, Section 14, Clause 4.

82. In Bengal the Magistrates are not competent to entertain charges of perjury in respect of proceedings had in a Civil or Criminal

Court without the direction or sanction of such Court. The same rule obtains in the Madras Presidency. In Bengal it has been applied by analogy to the offence of forgery also.

Regulation IX. 1816, Section 29.
Regulation II. 1822, Section 8.
Construction No. 454.

83. By the Draft Act, read in Council, under date the 16th October 1847, it is proposed to give the authority of express law to the rule, which hitherto has been constructively applied to charges of forgery, &c., relating to documents exhibited in Civil and Criminal cases, and to empower Civil and Criminal Courts generally to send charges of that nature arising out of proceedings before them respectively to be investigated by the Magistrates in order to ulterior proceedings in the usual course before the Courts of Session.

84. It is further proposed to authorize Principal Sudder Aumeens to commit for perjury in civil cases pending before them; and to enable Session Judges to try persons committed by themselves on the Civil side of the Court for perjury or subornation of perjury.

85. The offences commonly termed perjury and forgery are designated in the Penal Code, as the offences of "giving or fabricating false "evidence." The rule we propose is, that when such offence is committed in any stage of a judicial proceeding, or with a view to its having effect in any stage of a judicial proceeding, it shall be brought before the Court of Session by an indictment preferred by the Judge or Court of Justice conducting the judicial proceeding, or under whose authority it takes place, and not otherwise, except with respect to the offence of fabricating false evidence, when the case may not be fully before such Judge, &c.; and a further inquiry may be necessary to discover all the circumstances, and parties concerned, which inquiry will properly be referred to the ordinary committing Court.

86. We propose also that the offence of making a false declaration referred to in Clause 195, shall be cognizable by the Session Court, only on an indictment preferred by the Court to which the false declaration was exhibited. We propose the same with respect to the offence of making a false statement upon oath punishable under Clause 162, if it be made to a Judge or Magistrate or Court of Justice.

87. We have assumed that the offences of perjury and forgery will be left as at present to the jurisdiction of the Courts of Session. This leads us to submit a general scheme for determining the jurisdiction of the Session Courts, and the Subordinate Courts respectively, for the

Jurisdiction to be assigned to the Session Courts and to the Subordinate Criminal Courts respectively.

Vide B. 1.
Another Schedule is submitted B. 2. calculated to serve as an Index to the Offences and Penalties in the order in which they stand in the Code.

better understanding of which we have prepared a Schedule of the offences of the Code, classified according to the punishment to which they are liable, which will be found annexed to this Report.

88. The Courts existing at present for the trial of offences in the Provinces are the Courts of Session, and several Courts of inferior jurisdiction, variously designated in the several Presidencies as Subordinate Criminal Courts, Magistrates' Courts, Courts of Joint Magistrates, &c., with the full powers of Magistrate, Courts of Assistant Magistrates with special powers, Courts of Assistant Magistrates with ordinary powers, &c.

NOTE.—In the Presidency of Bombay, all State trials, and occasionally other trials of importance, are held by Judges of the Sudder Court when they go on Circuit as visiting Commissioners. We do not think it necessary to provide for the continuance of this arrangement.

Regulation III. of 1830, Section 10. Regulation VIII. of 1833.

89. We recommend that all the Courts inferior to the Courts of Session be divided into three classes under the general denomination of Subordinate Criminal Courts. The 1st class to comprehend the Courts at present designated as Subordinate Criminal Courts in the Presidency of Madras, and the Magistrates' Courts, and all Courts vested with the full powers of the Magistrate in the Presidencies of Bengal and Bombay. The 2nd class to be composed of the Magistrates' Courts of Madras, and the Courts held by Joint Magistrates and Head Assistants, exercising a separate local jurisdiction with the full powers of the Magistrate, and the Courts of Assistant Magistrates, Deputy Magistrates, &c., with special powers in Bengal and Bombay. The 3rd class to consist of the Assistant Magistrates, &c., with the ordinary powers of Assistant.

Jurisdiction of Session Courts.

90. We propose, that the Session Courts shall have exclusive jurisdiction for the trial of the offences punishable by the Code with death, or transportation for life, or banishment from the territories of the East India Company, or with imprisonment for life, or for a term which may extend beyond three years, or which may extend to three years, and must not be less than one year; of the offences punishable under Clauses 162, 276, 346, 365 and 468, with imprisonment which may extend to three years and must not be less than six months; of the offence punishable under Clause 434, with imprisonment which may extend to three years, and must not be less than three months; of the offences punishable under Clauses 113, 114, 309, 312 and 323, with imprisonment which may extend to three years; of the offences punishable under Clauses 141, 142, 195, 304, 479, 480 and 481, with imprisonment, which may extend to two years ; also of the offences punishable under Clauses 364, 369, 387 and 390, with imprisonment, which may extend to three years, when the value of the property, which is the subject of the offence

exceeds 300 Rupees; of offences, however, punishable charged against public Servants of the first four classes described in Clause 14; and of offences punishable cumulatively with imprisonment, which may extend beyond three years.

91. We propose, that they shall also try offences punishable individually or cumulatively, with imprisonment, which may extend beyond one year, other than those above specified, which shall be brought before them, as being attended with aggravating circumstances, calling for a more severe punishment than can be inflicted by a Subordinate Criminal Court of the 1st class.

92. It seems to us, that it may be advisable that the Session Courts should also try offences of the nature described in Clauses 278, 280 and 282, as being likely to involve questions, which require to be handled with judgment and delicacy, although the maximum punishment to which the offenders may be adjudged, is within the limit to which we propose, that the sentences of the Subordinate Courts of the 1st class shall extend, they are therefore included under the jurisdiction of those Courts in the rules we have framed.

Subordinate Criminal Courts of the 1st class.

93. We propose that the Subordinate Criminal Courts of the 1st class shall be empowered to try all offences not assigned to the jurisdiction of the Session Courts absolutely or conditionally, and that the Subordinate Criminal Courts of the 2d class shall be empowered to try offences punishable with imprisonment, which may extend to one year, except those assigned to the jurisdiction of the Session Courts, which being unattended with aggravating circumstances, will be adequately punished with imprisonment for a term not exceeding 6 months, or with a fine not exceeding 200 Rupees or both, also the offences punishable under Clauses 364 and 390, when the property, which is the subject of the offence, is of a value not exceeding 50 Rupees.

Subordinate Criminal Courts of the 3d class.

94. The jurisdiction of Subordinate Courts of the 3d class, we propose to be confined to petty thefts and the receiving of stolen property to the amount of 10 Rupees, and assaults which will be sufficiently punished with imprisonment not exceeding 1 month, or a fine not exceeding 50 Rupees.

95. The Subordinate Courts of the 1st class upon this plan will have an exclusive jurisdiction in respect of certain offences and a common jurisdiction partly with the Courts above and partly with the Courts below. The Subordinate Courts of the 2d class will have a jurisdiction

common, partly to the Courts of the 1st class and partly to those of the 3d. The jurisdiction of the Courts of the 3d class will be common to them with the Courts of the 1st and 2d classes.

96. The Subordinate Courts of the 1st class, we propose to be the ordinary committing Courts in cases triable by the Courts of Session, leaving it open to the Government to commission other Courts to perform this duty occasionally.

Note E, page 36, 2d Report on Penal Code, para. 82.

97. According to the suggestion of the framers of the Penal Code, we propose that offences falling under Clause 149 shall be cognizable by the official superiors of the offenders

98. We also propose to authorize the Courts to punish certain contempts and disobedience of process under Chapter IX. of the Code, and under Clause 197 of Chapter X., and such offences as are defined in Clauses 193, 194 and 196, when they come under their cognizance in regular proceedings before them.

99. We propose as a general rule, that offences under Chapters V. to XII., XVI. and XVII. shall not be brought before the Courts by private prosecutions; and that no person in the capacity of a Judge shall be prosecuted in a Criminal Court without the special order of Government directing or authorizing the prosecution. On the last head, we beg to refer to paras. 80 to 82 of our 2d Report on the Penal Code.

Appendix C, 8th Report, page 363.

100. With respect to offences under Chapter VIII. we are sensible that the rule we propose is liable to serious objections. On the whole it appears to us advisable to shield public servants from malicious prosecutions by the restriction we suggest, but it is not without hesitation that we submit the suggestion, and we think it proper to notice it as one calling for mature deliberation.

101. Having indicated the offences, the *trial* of which we think ought to be reserved to the Courts of Session, we have further to suggest the limits within which it may be advisable to empower those Courts upon the conviction of the defendant, to pass sentence absolutely, and beyond which the sentence should be left to be determined by the Sudder Court.

102. In the Presidency of Bombay at present the Courts of Session pass sentence in all cases tried by them; but the sentence requires the confirmation of the Sudder Court when it awards a more severe punish-

ment than imprisonment for seven years. In the other Presidencies the Courts of Session are empowered in general to pass an absolute sentence of imprisonment to the extent of seven years, which in cases of burglary, robbery or theft, with wounding, or other violence not dangerous to life, may be extended to fourteen years. In all other cases the trial must be referred to the Sudder Court with which it rests to pass sentence.

103. Referring to the annexed Schedule we propose that in all the Presidencies the Session Courts shall be empowered to pass sentence of imprisonment which may extend to seven years and of fine to the amount of 5,000 Rupees, and that it shall be at their discretion to exercise this power not only in all cases punishable with imprisonment limited to seven years, but also in cases in which the maximum term of imprisonment is ten and fourteen years respectively, where the offence may be of a degree that does not appear to them to call for a more severe punishment than imprisonment or banishment for a term within the limits abovementioned. B.

Offences tried by the Session Courts for which the Sudder Courts are to pass sentence.

104. All cases punishable with death or transportation or imprisonment for life we propose to reserve for the sentence of the Sudder Court, also cases punishable with banishment or imprisonment for a term which may extend to ten or fourteen years, in which it may appear to the Judge who has conducted the trial to be proper to extend the term of banishment or imprisonment beyond the limit of seven years to which we propose that the power of the Session Court shall be confined.

In cases tried by the Session Courts, and referred for the final judgment and sentence of the Sudder Courts, these Courts not to be empowered to order a further inquiry but to pass judgment on the record of trial as submitted by the Session Court.

105. It may be convenient here to consider a question which has arisen, whether the Sudder Courts ought to be bound to pass judgment in every case on the record submitted by the Session Court, holding the trial to be closed when the finding of the trying Court is recorded, or should be empowered to direct the trial to be resumed for the further investigation of particular points when they see occasion.

Bengal Reg. IV. of 1797, Sec. 4.
Madras Reg. VIII. of 1802, Sec. 11.

Enclosures in letter from Chief Secretary to Government of Bombay to Secretary to Government of India dated 4th November, 1846.

106. The existing laws of Bengal and Madras expressly authorize the Sudder Courts in trials for murder referred to them "to require "further evidence if they see occasion," and it is understood that it has been the practice to direct further evidence to be taken occasionally in trials for other offences also. The law of Bombay does not give the same authority to the Sudder Court expressly, but it is stated to have been the practice of the Court since the introduction of the Code of 1827 to call for further evidence when it has appeared to be requisite.

107. A reference having been made by the Government of Bombay to the Government of India on this subject in consequence of a discussion

From Mr. Secretary Bushby, 25th September, 1847.

regarding it which has lately taken place in the Sudder Court of Bombay, the papers have been transmitted to us for consideration in order to the settlement of an uniform rule of procedure at all the Presidencies.

Mr. Cameron's Minute.

108. The question as respects the procedure prescribed in the Bombay Court, is whether when the case for the prosecution has closed and the prisoner has been called on for his defence, and *sentence* has been passed by the Court which tried him, the Superior Court to which the sentence is referred for confirmation ought to be permitted to direct that fresh evidence for the prosecution shall be taken. There is a difference in the procedure of the Bengal and Madras Courts in that sentence is not passed by the Court which conducts the trial ; it passes judgment convicting the prisoner of the offence, and there stops, leaving it to the revising Court to pronounce the sentence. This is the procedure we propose to be observed generally. The function of the Session Court in cases referrible to the Sudder Court, we intend to be confined to the trial and delivery of a judgment of acquittal or conviction. The question adapted to this procedure, is, whether, after the close of the trial and the delivery of a judgment by the trying Court (which of course must be a judgment of conviction when the case comes before the Sudder Court, since a judgment of acquittal by the Session Court is final) the Sudder Court, if it cannot concur in the conviction of the prisoner on the evidence taken on the trial, shall have power to refer the case back in order to afford an opportunity for supplying evidence on which he might be convicted.

109. We are of opinion that the Sudder Courts ought not to have this power. Under the provision we propose for the amendment of the indictment after the evidence for the prosecution has been taken and before the defendant is called upon for his defence, with the power, which,

Mr. Millett's Minute.

as Mr. Millett observes, the Session Courts in all the Presidencies are vested with to adjourn proceedings when any witnesses have failed to attend, or further evidence may be considered necessary (a power, the continuance of which we contemplate) it appears to us that every proper opportunity will be given in order that if the prisoner is guilty of an offence he may be legally convicted of it. Our intention is that the Judge, before calling on the prisoner for his defence, shall pause and consider the case as it stands on the evidence adduced for the prosecution. This is the time to call for fresh evidence, if any defect appears, which, it seems, may be supplied ; or if there is any obscurity, which may probably be cleared up, by the examination of parties, who are indicated in the previous proceedings as likely to have knowledge on the subject. Then when all the available evidence has been taken, the Judge is to

consider whether it corresponds with the indictment, and if there is a variance to modify the indictment accordingly, so that it shall describe with certainty and precision the offence of which the prisoner appears to be really guilty, and thus prevent him from defeating justice by taking advantage of discrepancies between the facts and circumstances alleged, on imperfect information, as the grounds of the charge on which he has been arraigned, and those that have been proved on the trial.

110. Here we think the case for the prosecution ought to be finally closed. There must be some term at which the prisoner shall be assured that he is in possession of the whole matter that can be brought against him, and that if he can make a good defence as respects that matter he will be entitled to acquittal. It appears to us that this is the point at which that term should be fixed. We propose therefore that when the Judge has revised and finally settled the indictment at the stage above mentioned, and has called upon the prisoner to make his defence accordingly, the admission of further evidence against the prisoner to supply any omission or defect in that which has been recorded, or to corroborate it in any part, in order to his conviction, shall be absolutely precluded. If, however, the prisoner in his defence should open and attempt to prove any new matter, for example when he resorts to the plea of *alibi*, this rule should not debar the prosecutor from introducing evidence to rebut that which the prisoner has adduced touching such matter, or prevent the Court from calling for any evidence by which it is probable that the truth of such matter will be elicited. The trial being closed the Court should deliver its judgment of acquittal or conviction ; a judgment of acquittal should be final, absolving the prisoner for ever from responsibility on account of the subject matter. Upon a judgment of conviction the case should go before the Sudder Court in order to a revision. If upon revision the judgment of the lower Court is approved, sentence should be passed according to law. If the judgment of the lower Court is disapproved absolutely, it should be reversed, and a judgment of acquittal recorded. If it is disapproved on the ground that the offence proved does not answer to the legal definition of that of which the defendant is convicted, the Court should annul the conviction, but should pass a judgment convicting him of the offence which it finds to be legally established, if it is of the same nature, and is not liable to a higher punishment. The only case in which the Sudder Court should be permitted to require fresh evidence is, when, although the recorded evidence as it stands seems to be sufficient for the conviction of the prisoner, there appears to be some point, which has not undergone a perfect investigation, and, it is surmised, that a more close examination of it may probably prove favorable to the prisoner. In such a case the Sudder Court, we think,

Bentham's Judicial Evidence, 3, 378.

Exception.

ought to have the power of remanding the case to the trying Court in order that additional evidence may be taken on the point indicated, of course in the presence of the defendant, the cause of the further inquiry being explained to him, and he being invited to interrogate the witnesses.

Powers of punishment to be assigned to the several Courts inferior to the Session Courts respectively.

111. The jurisdiction we propose to give to the Subordinate Criminal Courts of the 1st class with a general power to punish with imprisonment, which may extend to 1 year, will, except in the Presidency of Bombay, where the same rule already obtains, bring many offences under their judicial cognizance, which are excluded from it under the present constitution. It will, however, restrict their power of punishing thefts, &c. It does not appear to us that there is any good reason for giving the subordinate judicatories greater power in cases of theft, &c., than in other cases. In Bombay the amount of fine, which may be inflicted by a Magistrate, is not limited. It appears to us that 1,000 Rupees is a proper limit; and that in all cases in which a larger amount is authorized as a punishment in the alternative, or in addition to imprisonment limited to 1 year or to a less period, the case should be sent up to the Session Court, if the Officer, who has been investigating the case, is of opinion that a higher fine ought to be imposed.

112. According to our scheme no Courts with a jurisdiction inferior to that of the Magistrates' Courts of Bengal and Bombay, and the Subordinate Criminal Courts of Madras, will be authorized to impose a fine exceeding 200 Rupees; and the power to fine to this extent will be restricted to those,* which are empowered to imprison for a term, which may extend to 6 months. Again the Courts,† whose power to imprison is limited to a term not exceeding 1 month, we intend to be restricted from imposing a fine exceeding 50 Rupees. When an offence comes before a Court vested with criminal jurisdiction of either of the grades last mentioned, which is punishable by the Code with a larger fine than such Court can inflict in addition to, or as alternative for imprisonment for a term, which it is within its power to inflict, and which in the opinion of the Officer holding the Court ought to be visited with a larger fine, the case should be passed to the next Superior Court to be disposed of.

* Subordinate Courts of the 2d Class.

† Subordinate Courts of the 3d Class.

Class 2d.

113. By classing together the Assistant Magistrates of Bengal, who are vested with special powers and the Assistant Magistrates of Bombay, and assigning to them generally the powers of the former, we diminish the powers now exercised by the latter, who are authorized to award punishment to the same extent as the Magistrate. We are of opinion that the power now proposed to be vested in them is ample. We think it ought always to be given by a special order of Government.

114. In Madras not only are the Head Assistants to Magistrates, so appointed by Government, competent to exercise the full powers of the Magistrate, but the Subordinate Assistants also may exercise the same powers in all cases referred to them by the Magistrate. The former, we presume, will be generally empowered by Government to hold Courts of the 2d class, according to our scheme. The latter, we suppose, will generally be restricted to the exercise of the powers we propose to assign to Subordinate Courts of the 3d class, which are somewhat larger than could be exercised by the Magistrates of Madras, before the enactment of Act VII. of 1843. But it will be at the discretion of Government to empower them specially to hold Courts of the 2d class, whenever it is thought fit to vest them with a separate local jurisdiction.

Trial of offences by Courts inferior to the Session Courts, and manner of recording the judgment.

115. With respect to offences to be tried and disposed of by the Subordinate Criminal Courts, we propose that when the evidence of the complainant and of the witnesses for the prosecution has been taken, the Officer presiding shall consider whether any and what offence is proved by it *primâ facie;* and if he finds that an offence is apparently proved against the defendant, which falls within a certain definition, or within one or other of several definitions in the Code, he shall notify the same to the defendant, and shall call upon him to answer for himself as charged accordingly upon the evidence which he has heard; and that when the defence and the evidence offered in support of it have been taken, and the trial is concluded, the presiding Officer, in passing judgment, if he convicts the defendant, shall distinctly specify the offence of which, and the Clause of the Code under which he convicts him, or if it be doubtful, under which of two Clauses the offence falls, shall distinctly express the same, and pass judgment in the alternative according to Clause 61. If the defendant, after having been called upon for his defence, is acquitted, the acquittal should be recorded, so as to bear a distinct reference to the charge to which the defendant was required to answer, in order to save him from any further prosecution upon the facts to which it related. So also the defendant ought to be acquitted if the Court is satisfied, without taking his defence, that he is not guilty of an offence in respect to the matter laid to his charge, and the acquittal should be so recorded that he may not be liable to further prosecution in the same matter. In these two cases, there should be a *judgment of acquittal.* But where the Court finds merely that there is not sufficient proof to convict the defendant of an offence, without being able to pronounce him guiltless, it should not *acquit* the defendant, but simply discharge him, leaving him liable to a renewed prosecution in the same matter, if better evidence should be forthcoming. It should be at the discretion of the Court in such a case, however, when the defendant

makes a statement from which it appears very likely that he can adduce evidence which will clear him, to proceed to take the evidence he offers, and if it is satisfactory, to pronounce a judgment of acquittal calculated to save him from further prosecution in respect of the matter in question.

HEADS OF DISTRICT POLICE, &c.

Madras.

Petty thefts, value not exceeding 5 Rupees, punishable by confinement with labour, not exceeding ten days. — Reg. IV., 1821, Sec. 4, modified by Reg. XIII., 1832, Sec. 5.

Trivial offences, viz. abusive language, inconsiderable assaults and affrays, fine not exceeding 3 Rupees, commutable to confinement for three days. — Reg. XI., 1816, Sec. 32, modified by Reg. IV., 1821.

Bombay.

Trivial thefts, abuse, assault, or resistance to public Officers, fine not exceeding 15 Rupees, or confinement not exceeding 20 days. — Reg. XII., 1827, Sec. 41, modified by Reg. IV. 1830, Sec. 5.

HEADS OF VILLAGE POLICE.

Madras.

Theft not exceeding 1 Rupee, abusive language and petty assaults punishable by confinement in the Choultry not exceeding 12 hours, or in the stocks, not exceeding 6 hours.

116. The jurisdiction in respect of petty offences and thefts of trifling amount, which by the existing laws is vested in the heads of District Police in the Presidencies of Madras and Bombay, and the jurisdiction vested in landholders having charge of the Police within certain local limits in the Presidency of Bombay, we would leave undisturbed. That which in Madras is vested in the heads of villages, we are disposed to think may be discontinued. Instead of conferring upon a District Police Officer the extended powers described in Section 42, Regulation XII. of 1827, of the Bombay Code, we think that when there is peculiar occasion for such an Officer exercising extraordinary powers, he should be vested with the jurisdiction of a Subordinate Court of the 3d class.

117. We propose the continuance of the jurisdiction at present exercised by the Heads of District Police at Madras and Bombay, merely as a temporary arrangement, hoping that ere long Government will be prepared to adopt the recommendation we offered in our Report, dated 17th
Para. 45. May 1843, that the Moonsiffs generally be vested with Criminal jurisdiction, in which event we conceive there will be no occasion for the performance of judicial functions by Officers of Police any where. The jurisdiction we would now recommend for the Moonsiffs is that proposed to be assigned to Subordinate Criminal Courts of the 3d class.

118. The suggestions we have offered in this Report, we have reduced into form in the accompanying scheme of provisions and rules for the Administration of Criminal Justice, according to the Penal Code, to which is annexed an Appendix containing forms of indictment, adapted to the provisions of the Code with some examples of pleading and of the manner of recording the finding of the Court.

119. This scheme we submit as a contribution towards a Code of criminal procedure, providing that in all points as to which the rules

contained therein give no direction ; the rules applicable thereto by the existing laws of the several Presidencies shall be considered in full force, and that in all points provided for by the rules contained therein, in so far as they differ from the rules heretofore in force by the existing laws of the several Presidencies, the latter shall be considered as repealed.

120. The Schedule C. annexed to this Report, contains rules similar to those referred to in Section XIII. of the Draft Act, submitted on the 27th January 1844, as a Supplement to our Report, dated the 4th November 1843, regarding the qualifications of Assessors and Jurors, the challenging of them, the manner of summoning them, and the penalties to be imposed on persons not attending when summoned.

We submit this our Report for the consideration of the Right Honorable the Governor General in Council.

C. H. CAMERON.
D. ELIOTT.

INDIAN LAW COMMISSION,
The 1st February, 1848.

SCHEDULE A.

INDEX TO SCHEDULE A.

OF OFFENCES TO BE TRIED BY COURTS OF SESSION.

SCHEDULE A.

Scheme of Provisions and Rules proposed for the administration of Criminal Justice according to the Penal Code.

COURTS FOR THE TRIAL OF OFFENCES UNDER THE PENAL CODE.

I. The Courts for the trial of offences under the Penal Code shall be the following:

COURTS OF SESSION.

Subordinate Criminal Courts of the 1st Class.
———————————— 2nd ——
———————————— 3rd ——

COURTS OF SESSION

Sentences to be passed by Courts of Session.

II. Courts of Session are empowered to pass sentence of
Imprisonment for a term not exceeding 7 years.
Banishment from the territories of the East India Company for a term not exceeding 7 years.
Forfeiture of specific property of a value not exceeding 5,000 Rupees.
Fine not exceeding 5,000 Rupees.

By Sudder Courts.

III. In every case tried by a Court of Session in which the defendant is convicted of an offence punishable by the Penal Code with severer penalties than the above, and which appears to the trying Court to be of such a gravity as to call for a punishment exceeding what it is empowered to inflict by its own sentence, the trial shall be referred to the Sudder Court, which shall pass judgment on the case.

SUBORDINATE COURTS.

By Subordinate Criminal Courts of the 1st class.

IV. Subordinate Criminal Courts of the 1st class are empowered to pass sentence of
Imprisonment for a term not exceeding one year.
Fine not exceeding 1,000 Rupees.

By Subordinate Criminal Courts of the 2d class.

V. Subordinate Criminal Courts of the 2nd class are empowered to pass sentence of
Imprisonment for a term not exceeding 6 months.
Fine not exceeding 500 Rupees.

VI. Subordinate Criminal Courts of the 3d class are empowered to pass sentence of

By Subordinate Criminal Courts of the 3d class.

Imprisonment for a term not exceeding 1 month.
Fine not exceeding 50 Rupees.

VII. The punishments which the above mentioned Courts are empowered to inflict respectively may be inflicted conjointly in all cases in which such conjoint punishment is authorized by the Penal Code.

VIII. The Courts which are to exercise the powers assigned to subordinate Criminal Courts of the 1st, 2d and 3d classes respectively shall be designated by the Executive Government of each Presidency.

SESSION COURTS.

IX. The Session Courts exclusively shall try offences punishable by the Penal Code with

Jurisdiction assigned to the Session Courts absolutely.

Death or Transportation for life, or banishment from the Territories of the East India Company, or imprisonment for life, or for any term which may extend beyond 3 years, or which may extend to 3 years, and must not be less than one year.

The offences punishable under Clauses 162, 276, 346, 365, and 468 with imprisonment which may extend to 3 years, and must not be less than 6 months.

The offence punishable under Clause 434 with imprisonment which may extend to 3 years, and must not be less than 3 months.

The offences punishable under Clauses 113, 114, 309, 312, and 323, with imprisonment which may extend to 3 years.

The offences punishable under Clauses 141, 142, 195, 304, 479, 480, and 481, with imprisonment which may extend to 2 years.

The offences punishable under Clauses 278, 280 and 282, with imprisonment which may extend to 1 year.

The offences punishable under Clauses 364, 369, 387, and 390, with imprisonment which may extend to 3 years, when the value of the property which is the subject of the offence exceeds 300 Rupees.

Offences however punishable charged against Public Servants of the first four classes described in Clause 14.

Also, offences punishable cumulatively with imprisonment, which may extend beyond 3 years.

X. They shall also try offences punishable individually or cumulatively with imprisonment which may extend beyond 1 year; other than those above specified which shall be brought before them as being attended with aggravating circumstances, calling for a more severe punishment than can be inflicted by a Subordinate Criminal Court of the 1st class.

Conditionally.

SUBORDINATE COURTS.

Jurisdiction of the Subordinate Criminal Courts of the 1st class.

XI. Subordinate Criminal Courts of the 1st class are empowered to try all offences not assigned to the jurisdiction of the Session Courts, absolutely or conditionally.

Of Subordinate Criminal Courts of the 2d class.

XII. Subordinate Criminal Courts of the 2d class are empowered to try offences punishable with imprisonment which may extend to one year, not assigned to the jurisdiction of the Session Courts; which being unattended with aggravating circumstances will be adequately punished with imprisonment for a term not exceeding 6 months, or with a fine not exceeding 200 Rupees, or both, also the offences punishable under Clauses 364 and 390, when the property which is the subject of the offence is of a value not exceeding 50 Rupees.

Of Subordinate Criminal Courts of the 3d class.

XIII. Subordinate Criminal Courts of the 3d class are empowered to try offences punishable with imprisonment which may extend to one month, also the offences punishable under Clauses 364 and 390, when the property which is the subject of the offence is of a value not exceeding 10 Rupees, also the offence punishable under Clause 342, when it is of a degree not requiring a severer punishment than imprisonment for a term not exceeding 1 month, or fine not exceeding 50 Rupees, or both.

Police Courts.

XIV. Besides the Courts above described, heads of District Police in the Presidencies of Madras and Bombay, and Landholders placed in charge of the Police within certain local limits in the Presidency of Bombay shall exercise the jurisdiction at present vested in them by law.

Exceptions.

XV. The rules contained in Sections IX. to XIII. are subject to exceptions as follows.

XVI. Heads of public offices shall be competent to take cognizance of offences falling under Clause 149, committed by inferior public servants attached to their offices and to punish them as therein authorized.

XVII. When any of the offences described in Chapter IX. of the Penal Code is committed in contempt of the lawful authority of a Judge or Court of Justice, or of a Magistrate, or any Officer vested with the powers of a Magistrate, acting as such in any stage of a judicial proceeding, it shall be competent to such Judge or Court or Magistrate to take cognizance immediately of such offence, and if it does not involve an offence under another Chapter for which the punishment is cumulative to adjudge the offender to punishment as authorized by the Clause applicable thereto.

XVIII. Provided that when an offence under Chapter IX. comes under the cognizance of a Judge or Court of Justice or Magistrate as aforesaid, which is punishable cumulatively as involving an offence under another Chapter, if the Judge or Court or Magistrate deems that the primary offence with the aggravation arising from the secondary

one will be punished sufficiently by a penalty not exceeding the maximum authorized for the primary offence, it shall be competent to him to sentence the offender accordingly, noting in the sentence that such aggravation has been taken into consideration, in which case there shall be no proceeding under the cumulative Clause.

XIX. Courts of Justice shall be competent to take cognizance immediately of offences relating to such Courts falling under the definitions in Clauses 193, 194 and 96, when such offences come to their knowledge in the course of regular proceedings before them, and of offences committed against the Courts themselves of the nature described in Clause 197, and to adjudge the offenders to punishment as authorized by the said Clauses respectively.

XX. Provided that no Civil Court under the Court of the Principal Sudder Ameen and no Criminal Court under a subordinate Criminal Court of the 2d class, shall pass judgment on any party for any of the offences referred to in Sections XII. and XIII. which are punishable with imprisonment for a term longer than one month, or a fine exceeding 50 Rupees, or both, but shall direct the prosecution of the offender before the Criminal Court competent to adjudge such punishment.

XXI. And provided that no Civil Court under a Zillah or City Court and no Criminal Court under a Subordinate Criminal Court of the 1st class shall sentence a party for any of the said offences to imprisonment for a term longer than six months, or a fine exceeding 500 Rupees, or both. When such an offence comes before any such Court which appears to be of a gravity to call for a more severe punishment it shall direct the prosecution of the offender before the Criminal Court competent to adjudge such punishment.

XXII. The rules contained in Sections IX. to XIII. are subject also to the following provision, viz. that charges of offences defined in the Penal Code in Chapters V., VI., VII., VIII., IX., X., XI., XII., XVI., and XVII., shall not be entertained by any Court unless the prosecution be instituted by order of or under authority from the Government of the Presidency, or by order of or under authority from a public Officer or Court duly empowered to direct or authorize such a prosecution, and provided that no person in the capacity of a Judge shall be prosecuted for any offence alleged to have been committed by him in that capacity without the special order of Government directing or authorizing his prosecution.

General proviso regarding the prosecution of certain offences.

XXIII. In cases of contempts of the lawful authority of public Servants, and other offences against public Servants as such, described in Chapter IX. of the Penal Code, other than those provided for above in Section XVII., prosecutions shall not be instituted, but at the instance of the public Servants concerned, except when they are inferior minis-

Special provisions for particular cases.

terial Servants, in which cases the prosecutions must be at the instance of their official superiors.

XXIV. In cases arising under Clauses 186 and 187 of Chapter IX., and under Clauses 199 and 200 of Chapter X., the complaints shall be first made to the public Servant or body of public Servants, or the Court of Justice which could legally have acted upon the application of the party for protection, or have entertained his suit, or otherwise acted judicially in the matter in question, and prosecutions shall not be instituted for the offences described in the said Clauses without the sanction of the said public Servant or Servants, or Court of Justice.

XXV. When there is ground for a complaint under Clause 196 on the part of a person injuriously affected by a civil suit to which he was not a party, and the injurious effect of which has been discovered subsequently to the determination of that suit, the complaint shall be first made to the Civil Court in which the suit was carried on, and a prosecution shall not be instituted under the said Clause in a Criminal Court without the sanction of such Civil Court.

Constitution of Courts of Session.

XXVI. A Court of Session may be held by the Judge of the Court sitting alone, or with two or more Assessors, or with a Jury.

Trial by the Judge with Assessors.

XXVII. Every person arraigned before a Court of Session may claim to be tried by the Judge sitting with Assessors.

XXVIII. When a person arraigned before a Court of Session is a British subject if he claims to be tried by the Judge sitting with Assessors, he may claim also, that one of the Assessors shall be a British subject when the number is confined to two, and that two of them shall be British subjects when the number is more than two.

Trial by the Judge with a Jury.

XXIX. When a person being a British subject is arraigned before a Court of Session for an offence liable to the punishment of death, he may claim to be tried by the Judge sitting with a Jury, of not less than three, and not more than nine persons, the majority of whom shall be British subjects.

OF OFFENCES TO BE TRIED BY COURTS OF SESSION.

Offences to be brought before Courts of Session by indictment.

XXX. Except where it is otherwise ordered by law the Courts of Session shall not take cognizance of any offences, but upon indictments preferred as hereinafter directed.

Indictment how to be preferred for the offences of giving or fabricating false evidence, &c.

XXXI. A Court of Session shall not take cognizance of any of the offences of giving or fabricating false evidence punishable under Clauses 190 to 192, or of making a false statement punishable under Clause 162, if it be made to a Judge or Magistrate, or Court of Justice, or of making a false declaration punishable under Clause 195, but upon an indictment preferred by the Judge, or Magistrate, or Court of Justice, before whom or which, or under whose authority the judicial proceeding took place, in

which the false evidence was given, or with a view to which the false evidence was fabricated, or to whom, or which the false statement or declaration was made or exhibited; or in case of fabricated evidence intended to have effect in some stage of a judicial proceeding before a Judge, or Magistrate, or Court of Justice, upon an indictment preferred in an ordinary way, as hereinafter directed, by a Subordinate Criminal Court, after an enquiry made; but at the instance of such Judge, or Magistrate, or Court of Justice.

XXXII. Provided that a Court of Session may indict a party for any such offence committed before it or under its own cognizance, and may try the party upon its own indictment.

How for other offences.

XXXIII. A Court of Session shall not take cognizance of any other offence, but upon an indictment preferred by a Subordinate Criminal Court of the 1st class, or other Subordinate Criminal Court specially empowered by the Government of the Presidency to act in this behalf.

XXXIV. When it happens that a person is appointed to officiate as Judge of a Court of Session, who had previously officiated in the Subordinate Court, by which commitments are made to that Court of Session, and there are before the Court of Session indictments preferred by himself upon which trials are still to be held, he shall nevertheless proceed thereupon in the same manner as in other cases.

Procedure of Subordinate Criminal Courts, empowered to commit to Session Courts in cases brought before them.

XXXV. When a case is brought before a Subordinate Criminal Court of the 1st class, or other Subordinate Criminal Court empowered to make commitments to the Court of Session, in which a person is charged with an offence which is triable exclusively by the Court of Session, or which from the alleged aggravations is one that ought to be tried by the Court of Session, the Court receiving the charge shall take the evidence of the complainant, and of such persons as are stated to have any knowledge of the facts, which form the subject matter of the accusation and the attendant circumstances, and shall examine the defendant, and, if upon consideration of such evidence and of the allegation, if any, made by the defendant, it shall appear to the Court, that there is sufficient ground *primâ facie* to put the defendant on his trial before the Court of Session for the alleged offence, it shall commit him to prison, or hold him to bail (as the case may be bailable or not) to take his trial for the same before the Court of Session in due course.

Examination of complainant and witnesses.

XXXVI. The complainant and the witnesses for the prosecution shall be examined in the presence of the defendant, and the defendant shall be permitted to cross-examine them.

Examination of defendant.

XXXVII. The defendant shall be examined by the Court in the following manner:—

First.—He must be informed that although he is at liberty to answer in what manner he may think proper the questions that shall be put to

him, or not to answer them at all; yet that a departure from the truth, or a refusal to answer, without assigning a sufficient reason, must operate as a circumstance against him, as well on the question of commitment as of his guilt or innocence on the trial.

Secondly.—He shall be asked his name and his father's name, his religion and caste, his age, the place of his birth, the place of his residence, and how long he has resided there, his business or profession.

Thirdly.—The following interrogatories shall be put to him:—

Where were you at the time the act [or omission] of which you are accused, is stated by the witnesses to have taken place?

Do you know the persons who have been sworn as witnesses on the part of the accusation, or any, and which of them, and how long have you known them?

Fourthly.—Afterwards he shall be asked to give any explanation he may think proper of the circumstances appearing in the testimony against him, and to state any facts that he thinks will tend to his exculpation.

Fifthly.—If the defendant shall here spontaneously confess himself to be guilty of the offence charged against him, or of any offence, he shall be required to give an account of the facts and circumstances in detail, and shall be examined thereupon to test the consistency of his relation in the same manner as if he were a witness.

Sixthly.—Whether the defendant shall confess or not on this occasion, if he shall have previously made a confession to a competent Officer, which shall have been reduced to writing and attested by witnesses, it shall be shewn and read to him, and he shall be asked whether he acknowledges it. If he acknowledge the confession, it shall be recorded, and he shall be examined upon the facts stated in it, to ascertain their correctness. If he deny that he stated what is written as his confession, or alleges that he made the statement under the influence of threats or promises, and that it is not true, evidence shall be taken on these points; and if it shall appear that the confession was taken down from his mouth without the use of undue means to extract it from him, it shall be recorded and he shall be examined upon it. Otherwise the confession shall be rejected.

Seventhly.—If any writing, or any article of property be produced in evidence, it must be shewn to the defendant, and he must be asked whether he recognizes it.

Examination of defendant to be reduced to writing.

XXXVIII. The examination of the defendant having been reduced to writing, shall be shewn or read to him, and he shall be at liberty to correct, or add to his answers; and when the whole is made conformable to what he declares is the truth, he shall be called upon to sign the examination. If he refuses to sign, his reason shall be stated in writing as he gives it, at the foot of the examination, and whether the defendant

signs it or not, the examination shall be attested by the signature of the Officer presiding in the Court, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the defendant's statement. No other attestation shall be necessary to render the examination available as evidence at the trial of the defendant, and such attestation shall be admitted without proof of the signature to it, unless the trying Court shall see reason to doubt its genuineness, as differing from the signature of the same Officer to other parts of the same Record, or for other cause. Provided that it shall always be at the discretion of the trying Court, to call upon the writer of the examination, or if need be, upon the Officer who attested it, to explain any thing in the examination which may appear doubtful.

And attested by the Officer presiding.

No other attestation necessary in order to the admission of the examination in evidence on the trial of defendant.

XXXIX. The defendant shall be sent before the Session Court for trial, when evidence has been given before the Subordinate Court, which appears to be sufficient (if it shall not be refuted or discredited on the trial) to convict him of an offence cognizable by that Court; or when the defendant has deliberately confessed himself guilty of such offence before the Subordinate Court, or when a confession previously made by him has been proved, and is corroborated substantially by evidence before the Subordinate Court.

Defendant to be committed for trial when the evidence *primâ facie* appears sufficient for his conviction;

Or on his confession before the Subordinate Court; or on a previous confession proved and corroborated by evidence before that Court.

XL. When the Subordinate Court resolves to send the defendant before the Session Court for trial, it shall prepare an indictment, relating succinctly the facts (that is, the things done, or omitted to be done) of which he is accused, and alleging such material circumstances as concur to determine the nature of the offence constituted thereby; stating also for the purpose of certainty the circumstances of time and place, and describing the means of action, and the instrument or weapon which was used, as far as there is evidence thereof; and concluding with an averment that the facts were done by the defendant with a certain intention, or with a knowledge that a certain consequence was likely to ensue, or from a certain motive, when such an averment is necessary to bring the offence within the definition in a certain Clause of the Code; or with alternative averments respecting the intention, or knowledge, or motive with, or from which the facts were done, answering to the description of several cognate offences defined in different Clauses of the Code, when it is doubtful which of them will be found to apply to the case, which averment or averments shall be expressed as nearly as possible in the words of the definitions referred to.

Rules for framing Indictments.

XLI. The Subordinate Court shall not in general take evidence offered in behalf of the defendant to refute or disprove the evidence, which is adduced against him, when *primâ facie* it affords sufficient ground for an indictment. But it shall be at the discretion of the Subordinate Court to take such evidence when it appears highly probable from the examina-

tion of the defendant, that the charge is false, and that sufficient proof of its falsity can be given by witnesses named by the defendant, who are present and ready to be examined. When by the examination of such witnesses evidence has been received, which entirely refutes, or discredits that which was adduced to support the charge, there will be no ground for an indictment.

XLII. The Subordinate Court shall not in general take evidence in behalf of the defendant in order to the establishment of any alleged legal exception or other matter, which, it is averred, will exculpate the defendant, or of any alleged extenuation, which it is averred will reduce the offence with which the defendant is chargeable to a mitigated description, such for example, as will reduce the generic offence of "voluntary culpable homicide," charged as amounting to "murder," to "manslaughter," or to "voluntary culpable homicide by consent," or "in defence."

But a commitment shall not be made when a legal exception or other matter exculpating the defendant is discovered by the evidence adduced to support the charge against him.

XLIII. When, by the evidence adduced to support the charge, circumstances are discovered, which are recognized by the Code as mitigatory, the indictment shall be framed accordingly, stating the circumstances which constitute the mitigation, and charging the offence specifically agreeably to the definition under which it appears to fall, as "manslaughter," for example, instead of "murder."

XLIV. So when from indications in the evidence adduced in support of the charge and from the allegations of the defendant, in his examination, it appears to the Court to be highly probable that by taking such evidence as the defendant offers and is ready to produce, it will be manifest that he is not culpable in the matter of the charge, by reason of some legal exception, or other matter whereby he is exonerated, or that the offence with which he is chargeable is of a mitigated description, it shall be at the discretion of the Court to take such evidence, and to proceed according to the effect thereof.

XLV. It is not necessary that the indictment shall negative any exception or mitigation by anticipation.

XLVI. For the guidance of the committing Courts forms of indictments are furnished in the Appendix to these Rules as examples to be followed *mutatis mutandis* in cases of a corresponding nature, and to be imitated as nearly as possible in other cases.

XLVII. The foregoing rules for framing indictments are to be deemed directory only, and an indictment shall not be vitiated because of any deviation from them, unless the deviation be substantially prejudical to the defendant.

XLVIII. As soon as the indictment has been prepared, the defendant shall be called before the Court to hear it read, and a copy or translation of it shall be furnished to him, in order that he may be prepared to answer to it before the Session Court, and he shall be required to deliver on the following day, (or after a longer interval if good cause be shewn for the delay,) a list of the witnesses whom he may wish to be summoned to give evidence on his trial before the Session Court, and at the same time to state the points they are to prove respectively, with reference to the indictment, according as his intention, which he must then declare, may be, to plead specially an exception or mitigation, or to plead generally not guilty, or admitting the facts, not guilty of the offence charged upon them, on the ground of the absence of guilty intention or otherwise.

Indictment to be read to defendant, and copy or translation to be furnished to him. Defendant to deliver a list of his witnesses and to state the points they are to prove and the nature of his defence.

XLIX. The statement made by the defendant, declaring the nature of his defence and the points to be proved by his witnesses shall be taken down in writing, and together with the list of his witnesses shall be annexed to the indictment, which shall then be transmitted to the Session Court with a complete record of the proceedings of the Subordinate Court, and of the evidence taken by it. The witnesses named by the defendant shall be summoned, and the day appointed for their attendance shall be notified to the Session Court.

The statement of the defendant to be sent with the Indictment and Record of proceedings to the Session Court.

Defendant's witnesses to be summoned.

L. Upon the receipt of the indictment with the accompanying Record, the Judge of the Court of Session shall compare the allegation in the indictment with the recorded evidence, and, if necessary, shall amend the indictment in order that the defendant may be charged exactly with the offence, which appears to result from the evidence given before the Subordinate Court.

Judge to compare the indictment with the Record, and to amend it if necessary.

LI. When upon the perusal of the Record it appears to the Judge, that a person has been admitted as a witness, who ought to be indicted as a party in the offence, the Judge shall himself alter the indictment so as to include him in the charge contained therein, or he shall send back the indictment to the committing Court, in order that the necessary alteration may be made with or without additional evidence.

When a person is wrongly sent as a witness, who ought to be tried as a party, the Judge may include him in the indictment.

LII. When the Judge, on comparing the indictment with the evidence recorded, finds that the evidence, though it offers strong ground for suspicion, is insufficient to convict the defendant of the offence imputed to him, or of any offence, he shall record his opinion to that effect, and thereupon shall order the discharge of the defendant.

When the recorded evidence appears insufficient to support the indictment, the Judge shall discharge the defendant.

LIII. When the Judge finds that the evidence, as it appears on the Record, is not only insufficient to convict the defendant, but leads to the presumption that he is innocent, he shall leave it to the election of the defendant whether he will be tried on the indictment received from the committing Court, in order that he may have the advantage of a full

When it leads to the presumption that the defendant is innocent, it shall be at his option to be discharged without a trial, or to stand a trial.

acquittal if the charge is not proved ; or will take his discharge without trial, by which he will be liable to a fresh prosecution on the same charge if stronger evidence shall be forthcoming.

Arraignment of the defendant.

LIV. When the indictment has been revised and settled under Section L., and the Court is ready to commence the trial, the defendant shall be brought before it, and the indictment being read to him he shall be arraigned upon it. The trial shall then proceed immediately: or if a substantial alteration has been made in the indictment, and the defendant desires to have time to consider it, the proceedings shall be adjourned to the next day, or to a later day at the discretion of the Court, when the indictment shall again be read to him.

Rules for Pleading, &c.

LV. After the indictment has been read to the defendant on his first appearance, if the trial proceeds immediately, or on his second appearance, if an adjournment takes place, he shall be asked whether he admits or denies the facts alleged in it; and, if he admits the facts, whether he is guilty or not guilty of the offence thereupon charged against him, or has any legal exception or mitigation to plead. The defendant may deny the facts, and consequently the offence charged as resulting therefrom; or he may decline to admit or deny the facts, thereby putting the prosecutor to the proof of them; or he may admit the facts, but plead not guilty of the offence charged against him upon those facts; or admitting the facts he may plead specially an exception or mitigation: For example, in a case of homicide he may admit that the deceased died by his hand, but may plead not guilty of "voluntary culpable homicide" of any description, averring that the event occurred by mischance without any intention on his part to cause, or knowledge that he was likely to cause, the death of the deceased or of any person, by the act in question; and that the act therefore does not fall within the definition in Clause 294;—or he may plead an exception as under Clause 62, averring that he did the act, which caused the death of the deceased in good faith, believing himself commanded by law to do it;—or as under Clause 76, averring that he did the act, which caused the death of the deceased in self-defence;—or a mitigation under Clause 297, averring that he did the act, which caused the death of the deceased, on grave and sudden provocation given to him by the deceased. So when the indictment is for defamation under Clause 469, he may plead a special exception under one of the nine Clauses next following.

Vide Appendix 2. Vide Appendix 1. Appendix 8. Appendix 3. Appendix 5. Appendix 9. Appendices 66 and 67.

LVI. When the defendant has answered orally to the indictment, the matter of his answers shall be reduced into form and written down by an Officer of the Court under the direction of the Judge after the manner of the examples in the Appendix.

Trial.

LVII. If the defendant denies absolutely the facts alleged in the indictment, or declines to make any admission or denial, the Court shall

proceed to try the case, taking all the evidence that is forthcoming in due course.

LVIII. If the defendant says, he admits the facts alleged in the indictment, but pleads not guilty of the offence thereupon charged against him, or pleads a legal exception or mitigation, the Court shall proceed to examine him in order to elicit a particular statement of the facts which he intends his acknowledgment to embrace; and if his statement is consistent in itself, and after it has been tested by interrogations, suggested by the evidence given before the Subordinate Court, and there appears to be no reason to doubt its truth, or the identity of the facts described by him with those related in the indictment, it shall not be necessary in prosecuting the trial to take evidence for any purpose, but to ascertain whether the defendant did what he acknowledges was done by him, with or without the intention or knowledge or from the motive imputed in the indictment, or whether a legal exception or mitigation occurs as pleaded. Provided always, that when an exception or mitigation is pleaded, which is not inferrible from the matter set forth in the indictment, and admitted by the defendant, the burthen of proving extrinsic circumstances, from which it is inferrible, shall rest with the defendant. For example, when the defendant pleads under Clause 62, that he did the act, which is charged as an offence in good faith, believing himself to be commanded by law to do it, he must give proof of circumstances from which his good faith may reasonably be inferred.

LIX. If upon an indictment for defamation under Clause 469, the defendant admits the allegations in the indictment, but pleads any of the exceptions in the nine Clauses following, the burthen of the proof of facts, or circumstances necessary to establish such exception, shall rest with the defendant.

LX. If the defendant pleads the first exception under Clause 470, it shall be incumbent on him to allege and prove, first the particular fact, or facts by reason whereof it was for the public benefit that the matter of the imputation charged in the indictment should be believed in the quarter in which it was intended that it should be believed; and secondly, that the imputation is true. And evidence shall not be admitted to prove the truth of the imputation, if the Court does not see reason to infer from the evidence on the first head, that the imputation was made in good faith for the public benefit in respect to some particular object.

NOTE.—This is founded on the supposition of Clause 470, being altered as suggested in Para. 390, of the 2d Report on the Penal Code.

LXI. If the defendant pleads the second, third, or fourth exception under Clause 471, Clause 472, or Clause 473, it shall be incumbent upon him to allege and prove the particular fact or facts and circumstances, with respect to which he made the imputation charged in the indictment, and upon which he rests his averment that the imputation was made in good faith.

LXII. With respect to the exceptions generally in the nine Clauses, from Clause 470 to Clause 478, if the facts and circumstances proved are sufficient to establish the exception, the defendant shall not be required to give extrinsic proof of good faith, unless the prosecutor shall prove facts from which bad faith is to be inferred in respect to the matter in question.

LXIII. When the defendant says he admits the facts and pleads guilty of the offence charged in the indictment, the Court shall nevertheless examine him in the manner above directed, and if the statement elicited from him be consistent in itself, and so full and complete on all points, that if it were given by a witness it would be taken as sufficient evidence of the facts deposed to and of the guilt of the party who did them, and when tested by interrogatories suggested by the evidence given before the Subordinate Court, there appears to be no reason to doubt its truth, or the identity of the facts described by the defendant with those related in the indictment, it shall be competent to the Court without farther trial to pass a judgment convicting the defendant.

LXIV. Provided, that it shall always be at the discretion of the Court in either of the cases mentioned in the last two Sections, when from a discrepancy between the evidence given before the Subordinate Court and the statement of the defendant, or for any other reason, it entertains a doubt of the truth of the defendant's statement, to go into the trial of the case as fully as if the defendant had not admitted the facts, or had not pleaded guilty.

LXV. When the defendant has been indicted on a plenary confession, deliberately given by him before the Subordinate Court, and adhered to upon a strict examination made by that Court to test the truth of his statement, if on being arraigned before the Session Court, he shall nevertheless deny the facts alleged in the indictment and plead not guilty, the said confession and examination, being duly certified in the manner directed in Section XXXVIII., and the Judge of the Court of Session being satisfied of the authenticity of the certificate, shall be admitted as evidence in support of the indictment, and being corroborated by the evidence of one witness, the prosecutor or any other, proving that the offence confessed by the defendant was actually committed by some person, as for example in a case of homicide, that the person whose death is in question was actually killed by some person in the manner related in the indictment, it shall be competent to the Court to convict the defendant upon the said confession, if it believes it to be true without further proof. In such a case it shall be at the discretion of the Court, if it has any doubt, to examine the defendant with reference to any matter mentioned in his confession in order to test the truth thereof, and also to take the evidence of witnesses by which the truth, or falsity of any such matter may be ascertained.

LXVI. When the defendant has been indicted upon a previous confession proved before the Subordinate Court by witnesses who were present when it was delivered and reduced into writing, and upon corroborative evidence given before that Court, the said confession shall be admitted to proof by the Session Court, and being proved shall be received as evidence together with the examination of the defendant before the Subordinate Court, the same being duly certified, and it shall be competent to the Court if the said confession is corroborated to its satisfaction by independent evidence, to convict the defendant upon the ground thereof.

Adjournment of proceedings in order to wait for witnesses, &c.

LXVII. The trial having been commenced, the Court shall proceed without delay to take the evidence of the prosecutor and of the witnesses for the prosecution who are in attendance, and unless the defendant signifies that he requires them to continue in attendance to be confronted with his witnesses, and to be examined for the defence on some of the points already recorded, or the Court itself sees reason to order them to attend for further examination at a future stage of the trial, they shall be permitted to return to their homes. If more witnesses have been previously summoned for the prosecution and are expected to attend, or if the Court thinks it necessary before taking the defence to call for further evidence, the proceedings shall be adjourned.

When an adjournment is contemplated, if there are witnesses in attendance on the part of the defendant, and it shall be inconvenient for them to wait until the trial is resumed, it shall be competent to the Court with the consent of the defendant, to take their evidence at once, and to dismiss them to their homes.

The Judge to revise, and if necessary, to amend the indictment before calling on the defendant for his defence.

LXVIII. When the prosecution has been brought to a close, the Judge presiding, before calling on the defendant to enter upon his defence, shall consider the evidence recorded, and if he finds that it differs in some material points from that which was given before the Subordinate Court, upon which the indictment was framed, and therefore does not correspond exactly to the charge therein contained, but is sufficient, if not refuted, or discredited by counter evidence, to prove an offence against the defendant of the same class, affecting the same person and touching the same matter, it shall be competent to him to alter the indictment so that it shall charge the defendant precisely with the offence, which, according to the evidence, is imputed to him. Or if the indictment has charged the defendant alternatively, and the Judge finds that the evidence admits of the charge being restricted positively to either branch of the alternative, it shall be competent to him to alter the indictment accordingly.

If the evidence for the prosecution is not sufficient to sustain the indictment, defendant may be at once acquitted.

LXIX. If the evidence shall be found insufficient to sustain the indictment, and to establish any offence against the defendant, the Judge

shall make a declaration to that effect, and the Court shall thereupon pronounce his acquittal.

Defence—when the indictment is not altered.

LXX. If the Judge resolves to proceed upon the indictment without alteration, it shall now again be read over to the defendant and he shall be called upon to enter upon his defence and to produce his evidence.

When the indictment is altered.

LXXI. If the indictment is altered to adapt it to facts or circumstances of which as it stood when the defendant was arraigned, it gave no intimation, and which the defendant could not anticipate from the relation contained therein, it shall be read over to the defendant in its amended form; and if the alteration is material, the Court, at the request of the defendant, shall suspend the trial for a day or longer, if necessary, to enable him to answer to it, and if in delivering his answer he asks leave to call additional witnesses they shall be summoned, and a further adjournment shall be made, if necessary, to admit of their appearance.

Additional witnesses for defence.

LXXII. In general it shall be at the discretion of the Court to allow the defendant upon good cause shewn by him to call witnesses in addition to those named in the list delivered to the Subordinate Court. The reasons of the Court for granting or refusing an application for additional witnesses shall be recorded in the proceedings.

When the defence opens new matter, the prosecutor or Court may call further evidence to meet it.

LXXIII. When the defence opens new matter and evidence is brought to prove it, the Court shall allow the prosecutor to adduce counter evidence, and if the prosecutor declines to do so, it shall be at the discretion of the Court for its own satisfaction to call for any witnesses by the examination of whom it is probable that the truth of the matter can be ascertained, and to take their evidence.

An indictment not to be withdrawn or cancelled by the Court which submitted it, but may be returned for amendment.

LXXIV. When an indictment has been laid before a Court of Session, it shall not be withdrawn or cancelled by the Court, which submitted it, of its own authority; but if before the commencement of the trial, or before the case of the prosecution has been closed in the Court of Session, the lower Court has obtained new evidence with reference to which it appears to be proper to amend or revise the indictment, it shall be competent to it to make a representation to that effect to the Session Court, and the Judge of the Session Court shall have authority to return the indictment, and the record submitted with it, and to remand the defendant to be present at the further examination intended. The indictment being amended shall be again submitted to the Session Court and the defendant shall be sent back. If the trial had not commenced before the indictment was returned, the defendant will, of course, be arraigned upon the amended indictment, and the trial will proceed in the usual manner. If the trial had commenced it shall be resumed, the amended indictment being first read over to the defendant, and after the close of the case for the prosecution, the defendant shall be called upon

for his answer in the same manner as when the indictment is altered by the Court at this stage.

LXXV. In a case tried by the Judge with the aid of Assessors or with a Jury, at the conclusion of the trial the Judge shall sum up the evidence on both sides, and the Assessors or the Jury, as the case may be, shall then deliver their finding upon the indictment. If their finding be "not guilty," it may be expressed in these words. Otherwise they must deliver a distinct and positive finding on each essential article of the indictment, according to the examples in the Appendix. Provided, that if the indictment charges the defendant alternatively, and the Assessors or Jury find that he is guilty of one or other of the two offences charged, but are unable to determine positively, which of the two offences it is, they shall deliver a special finding according to the example in No. 52 of the Appendix. Finding in a case tried by the Judge with Assessor or Jury.

LXXVI. In a case tried by the Judge sitting alone, his finding shall be recorded in the same form. In a case tried by the Judge alone.

LXXVII. In a case so tried when the Judge sitting alone finds the defendant guilty, he shall pass sentence upon him according to law, if the case be one, which he is competent to dispose of finally. Otherwise he shall refer the trial with his finding upon it for the final judgment and sentence of the Sudder Court. When he finds the defendant "not guilty," he shall record his acquittal and order him to be discharged. Sentence in a case tried by a Judge alone.

LXXVIII. When Assessors have assisted at the trial, if the case is one which the Court of Session is competent to dispose of absolutely, the Judge, after considering the finding of the Assessors, which shall be delivered by them jointly, if they agree, or separately, if they disagree, shall pass a decision convicting or acquitting the defendant according to his own judgment. If his decision is contrary to the finding of the Assessors, or of the majority of them, he shall record his reasons for differing with them. Judgment in a case tried by the Judge with Assessors.

LXXIX. When the Judge's decision convicts the defendant either in concurrence with, or in opposition to the finding of the Assessors, if the case is one which he is competent to dispose of finally, he shall proceed to pass sentence upon the defendant according to law. Sentence.

LXXX. If the case is one in which if the defendant be convicted, it belongs to the Sudder Court to pass sentence, the trial shall be referred to that Court as well when the Judge finds the defendant guilty against the opinion of the Assessors or of the majority of them, as when the Judge and the Assessors or the majority of them agree in finding the defendant guilty.

LXXXI. In every case it shall be competent to the Judge to acquit the defendant when he finds him not guilty, notwithstanding a contrary opinion delivered by the Assessors or the majority.

Jury—verdict of majority sufficient for conviction with the concurrence of the Judge.

LXXXII. When a Jury has sat on the trial, the verdict of a majority of the Jurors shall be sufficient for the conviction of the defendant if the Judge concurs in it. A bare majority shall be competent to give a verdict of conviction when the number of Jurors does not exceed five; when the number of Jurors is six, the majority to convict shall be four; when the number is seven or eight, the majority shall be five; when the number is nine, the majority shall be six.

Without the concurrence of the Judge a verdict of conviction must be unanimous.

LXXXIII. When the defendant is convicted by the unanimous verdict of the Jury, whether the Judge concur in it or not, or when the verdict of the majority as aforesaid convicts the defendant and the Judge concurs in it, the trial shall be referred for the final judgment and sentence of the Sudder Court.

When a majority convicts, but Judge dissents, defendant to be acquitted.

LXXXIV. When the verdict of the majority convicts, but the Judge dissents, the defendant shall be acquitted.

Also when the number of Jurors, voting for conviction, does not constitute the prescribed majority.

LXXXV. The defendant shall be acquitted also when the Jury are divided in opinion, if the number of Jurors voting for conviction does not constitute the prescribed majority.

Cases referred for the judgment of the Sudder Court.

LXXXVI. In cases referred for the final judgment and sentence of the Sudder Court, that Court shall revise the record of trial submitted by the Court of Session, and if it approves of the conviction of the defendant, it shall proceed to sentence him to punishment according to law.

Sentence.

Acquittal.

LXXXVII. If the Sudder Court disapproves of the conviction of the defendant absolutely, it shall pass a judgment of acquittal.

In what case the Sudder Court may convict of an offence different from that found by the trying Court.

LXXXVIII. If the Sudder Court disapproves of the conviction of the defendant, on the ground that the offence proved does not answer to the legal definition of the offence of which he is convicted, it shall annul the conviction; but it shall be competent to the Court to pass a judgment convicting the defendant of the offence, which it deems to be legally constituted by the facts, which the lower Court found to be proved, if it is an offence of the same nature, and to sentence him to punishment according to law.

In what case the Sudder Court may return a case for additional evidence.

LXXXIX. If it shall appear to the Sudder Court, that more evidence is attainable on some point by which circumstances that, as the case stands, appear unfavorable to the defendant may probably be shewn in a different light, it shall be competent to the Court in such a case, and in such a case only, to return the Record to the Court of Session, in order that additional evidence may be taken on the point indicated.

TRIALS BY SUBORDINATE CRIMINAL COURTS.

XC. In trials by Subordinate Criminal Courts, when the evidence of the complainant and of the witnesses for the prosecution has been taken in the presence of the defendant, the Officer, presiding in the Court, shall consider whether any and what offence is proved by it *primâ facie*, and

if he finds that an offence is apparently proved against the defendant, which falls within the definition in a certain Clause of the Code, or within one or other of the definitions in several Clauses of the Code, he shall call upon the defendant to answer for himself as charged positively or alternatively with such offence or offences, specifying the Clause or Clauses of the Code referred to, and when the defence and the evidence offered in support of it have been taken, and the trial is concluded; the presiding Officer in passing judgment, if he convicts the defendant shall distinctly specify the offence of which, and the Clause of the Code under which he convicts him, or if it be doubtful under which of two Clauses the offence falls, shall distinctly express the same and pass judgment in the alternative according to Clause 61.

XCI. If the defendant, after having been called upon for his defence, is acquitted, the acquittal shall be recorded so as to bear a distinct reference to the charge to which the defendant was required to answer, in order to save him from any further prosecution, upon the facts to which it related.

XCII. The Court may acquit the defendant without taking his defence, if it is satisfied from the evidence of the complainant, and the witnesses for the prosecution, that he is not guilty of the offence imputed to him. The record of acquittal in this case shall recite the accusation in order to save the defendant from any further prosecution in regard to the same matter.

XCIII. When the Court, on reviewing the evidence of the complainant and his witnesses, finds merely that there is not sufficient proof against the defendant without being satisfied that he is not guilty of the offence imputed to him, it shall not *acquit* the defendant, but simply discharge him, leaving him liable to a renewed prosecution unless the defendant makes a statement from which it appears probable that the evidence he offers will be sufficient to warrant his acquittal, in which case the Court shall proceed to take his defence and examine his evidence; and if it is satisfied therewith, shall pronounce a judgment of acquittal, reciting in the record thereof the accusation referred to, in order to bar any further prosecution.

XCIV. The defendant shall himself be liable to examination in trials before the Subordinate Criminal Courts, in the same manner as in preliminary investigations held by Subordinate Courts in cases triable by the Courts of Session.

XCV. In all points as to which the foregoing rules give no direction, the rules applicable thereto by the existing laws of the several Presidencies shall be considered in full force.

XCVI. In all points provided for by the foregoing rules in so far as they differ from the rules heretofore in force by the existing laws of the several Presidencies, the latter shall be considered as repealed.

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Forms of Indictment for offences defined in the Penal Code, subject to the jurisdiction of the Courts of Session, with some examples of pleading, and of the manner of recording the finding and judgment of the Court.

Indictments for offences affecting the human body under Chapter XVIII.

No. 1. Form of an indictment for "voluntary culpable homicide" designated as "Murder" in Clause 295.

Finding—Murder under Clause 295.

Indictment against I S

I S (Here enter a description sufficient to identify the party, containing the usual particulars) is charged as follows:

1. That the said I S on the ——— day of ——— (English date) corresponding with ——— of ——— (Native date) about an hour before sunset in the road, in front of the house in which the said I S usually resides at ——— in the pergunnah of ———, in the zillah of ———, in the presence of A B and C D, inflicted a wound with a dagger on the left breast of E F (here give a description of the deceased sufficient to identify him) of which wound E F died on the ———.

2. And that I S inflicted the said wound on E F with the intention of causing his death thereby, and is guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

DEFENCE.

The defendant puts himself upon his trial neither admitting nor denying the allegations in the indictment.

FINDING OF THE COURT.

1. The Court finds, that I S inflicted a wound on E F, as stated in the indictment whereof E F died.

2. And that I S inflicted such wound with the intention of thereby causing the death of E F.

3. And is guilty of "Murder" under Clause 295 of the Penal Code.

QUALIFIED FINDING ON THE SAME INDICTMENT,

1. The Court finds, that on —— at —— I S inflicted a wound upon E F whereof E F died.

2. And that he inflicted such wound on E F, *knowing that he was likely thereby to cause the death of E F.*

3. But that the wound was *not on the left breast* but on the *left side of the neck* of E F, and that it is *not proved with what weapon or instrument the wound was inflicted.*

4. On the above finding, the Court convicts I S of "Murder" under Clause 295 of the Penal Code.

Note. The finding of the Court in the above example, and in all the following examples, is adapted to cases in which the Judge has sat alone on the trial, or with Assessors when the finding of the Assessors is approved by the Judge, or with a Jury when the finding is unanimous, or when the finding is that of the majority the Judge concurring in it.

No. 2. Indictment for "Murder" by poison, unaer Clause 295. (Defendant pleads not guilty, denying the facts alleged.) (Finding—"Murder.")

A B is charged as follows:

1. That the said A B in the house of C D at ——— on ———, having got access to certain food which he knew C D was about to eat, mixed therewith a quantity of a certain poison called arsenic, which poison so mixed with his food, the said C D unknowingly swallowed, and by the operation thereof died on the ———.

2. And that A B so mixed poison with the food of C D intending thereby to cause his death, and is guilty of "voluntary culpable homicide" of the description designated as "Murde-", in Clause 295 of the Penal Code.

DEFENCE.

Defendant pleads not guilty, denying tne facts alleged in the indictment.

FINDING.

1. The Court finds that on the day and at the place mentioned in the indictment A B mixed a quantity of poison called arsenic, with certain food which C D was about to eat, and that C D unknowingly swallowed the same with his food, and died by the operation thereof.

2. And that A B so mixed poison with the food of C D, intending thereby to cause his death.

3. And is guilty of "Murder" under Clause 295 of the Penal Code.

Another finding the nature of the poison not having been discovered on the trial.

1. The Court finds that, on the date and at the place mentioned in the indictment, A B mixed some kind of poison with the food, which C D was about to eat, and that C D having unknowingly swallowed the same with his food, died by the operation thereof.

2. The Court finds also that A B so mixed poison with the food of C D, intending thereby to cause his death.

3. And convicts him of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

Indictments for "Murder" under Clause 295 with examples of exceptions pleaded thereto under Chapter III.

No. 3. Indictment under Clause 295. Exception pleaded under Clause 62.

Finding "not Guilty."

Charge against A, a Sepoy in the 1st Regiment of Bengal Native Infantry.

1. That the said A, on —— at ——— fired a shot from a musket, by which B was wounded, and of the wound died on the ———

2. And that the said A, in firing the said musket knew that he was likely to cause the death of some person.

3. And is guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

DEFENCE.

1. The defendant A confesses the allegations in the 1st and 2d Clauses of the Indictment.

2 But pleads "not Guilty" under the exception in Clause 62 of the Penal Code, averring that he was on duty with his Company, which had been called out to resist a mob, and that he fired the shot, which caused the death of B, by the order of his superior Officer, which order was given on the requisition of the Magistrate of the District in conformity with the commands of the law.

FINDING OF THE COURT.

1. The Court finds, that B was killed by a shot fired by A, which A fired knowing that he was likely thereby to cause the death of some person.

2. But that A being a Sepoy on duty with his Company, fired the shot by the order of the Officer Commanding the Company, on the requisition of the Magistrate for the purpose of dispersing a riotous assembly after proclamation had been made according to law commanding the assembly to disperse.

3. The Court therefore adjudges under Clause 62 of the Penal Code, that the said A is "not Guilty."

No. 4. Indictment under Clause 295. Exception pleaded under Clause 67.

Finding "not Guilty."

Charge against A.

1. That the said A on ——— at ——— fired a pistol loaded with ball at Z, by which Z was mortally wounded and died on the ———.

2. And that A intended thereby to cause the death of Z.

3. And is guilty of "voluntary culpable homicide" of the description designated as Murder in Clause 295 of the Penal Code.

DEFENCE.

1. The defendant A confesses the allegation in the first Clause of the indictment.

2. But pleads "not Guilty," under the exception in Clause 67 of the Penal Code, averring that when he fired the shot, which caused the death of Z, he was mad.

FINDING OF THE COURT.

1. The Court finds that Z was killed by a shot fired from a pistol by A, but that A was mad at the time.

2. And therefore adjudges under Clause 67 of the Penal Code that A is "not Guilty."

No. 5. Indictment under Clause 295. Exception pleaded under Clause 76.
Finding "not Guilty."
Charge against F the wife of E.

1. That on the ——— at ——— the said F stabbed G with a knife and inflicted a wound upon him, of which he died on the day following.

2. That she intended thereby to cause the death of G, or knew that she was likely thereby to cause his death.

3. And is guilty of "voluntary culpable homicide" of the description designated as Murder in Clause 295 of the Penal Code.

DEFENCE.

1. F confesses that she stabbed G with a knife, and that the wound of which he died was inflicted thereby, and that when she stabbed G, she knew that it was likely that she would thereby cause his death.

2. But pleads "not Guilty" under the exception in Clause 76 of the Penal Code, averring that she inflicted the said wound in defence of her body against an assault made by G, with the intention of committing rape upon her.

FINDING OF THE COURT.

1. The Court finds that G died of a wound inflicted by F, with the knowledge that she was likely thereby to cause his death.

2. But that F inflicted the said wound in self-defence to save herself from violation, having been assaulted by G in a manner which led her reasonably to apprehend that he intended to commit rape upon her.

3. The Court therefore adjudges under Clause 76 of the Penal Code, that F is "not Guilty."

No. 6. Indictment under Clause 295. Exception pleaded under Clause 69. Conviction under Clause 298.

Charge against A.

1. That on the ——— at ——— the said A, a professed pugilist, in fighting publicly for a prize with B, also a professed pugilist, voluntarily inflicted several blows upon the head and body of B with his fists, and thereby caused hurt to B, whereof he died on the ———.

2. That A, in inflicting the said blows on B, knew that he was likely thereby to cause his death.

3. And is guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

DEFENCE.

1. A admits the facts alleged in the first Clause of the indictment.

2. But denies that he knew that he was likely to cause the death of B by the blows which he inflicted upon him.

3. And pleads "not Guilty" under the exception in Clause 69, by reason of an agreement between B and him, to fight on certain conditions, implying the consent of B to take the risk of any harm that might arise to him by any blows struck by A with his fists in so fighting.

FINDING.

1. The Court finds that B died of the injury caused by certain blows inflicted upon him by A with his fists.

2. That A knew that he was likely to cause the death of B by the blows which he inflicted on him.

3. And that the exception pleaded under Clause 69, therefore does not apply.

4. But it being proved that B agreed to fight with A, on certain conditions, implying the consent of each to take the risk of any harm that might be caused by any blows struck by the other with his fists in fighting; the Court convicts A of voluntary culpable homicide of the mitigated description designated in Clause 298, as "voluntary culpable homicide by consent."

No. 7. Indictment under Clause 295. Exception pleaded under Clauses 79 and 81.

Finding "not Guilty."

Charge against L.

1. That the said L, about the hour of 12 P. M., on the night of the —— day of ————, at ———, in the road which passes behind the house in which L then resided, at the distance of about 100 yards from the said house to the west, came behind M, who was going along the

road westward, and fired against him, by the shot from which gun M was mortally wounded, and died within the space of six hours.

2. And that the said L in so firing at M intended to cause his death.

3. And is guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

DEFENCE.

1. L admits the allegations in Clauses 1 and 2 of the indictment.

2. But alleges that M with others had broken into his house and committed robbery, and that when they retired he pursued them with a loaded gun, and coming near to M fired the gun at him as the only means of arresting him and recovering his property, which he believed in good faith M was carrying away.

3. And pleads "not Guilty," the death of M having been caused by him in the exercise of the right of private defence of property under Clauses 79 and 81.

FINDING OF THE COURT.

1. The Court finds that the death of M was caused by L as alleged in Clause 1 of the indictment, and with the intention alleged in Clause 2.

2. But that the death of M was caused by L in the exercise of the right of private defence of property under Clauses 79 and 81 of the Penal Code.

3. And that L is therefore "not Guilty."

No. 8. Indictment under Clause 295.

Defendant pleads "not Guilty," the event having happened by mischance.

Finding— "not Guilty."

Charge against A.

1. That on the ——— at ——— A fired a gun loaded with ball, by which B was wounded mortally, and died on the same day.

2. That A knew that he was likely to cause the death of some person by firing the said gun, and is guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

DEFENCE.

1. A admits that the death of B was caused by a shot fired by him as stated in the first Clause of the indictment.

2. But pleads "not Guilty" of "voluntary culpable homicide," averring that the event happened by mischance, he having fired at a deer of which he was in pursuit, not knowing, and having no reason to appre-

hend that any person was within the range of his gun in the direction in which he fired.

FINDING OF THE COURT.

1. The Court finds that A caused the death of B in the manner stated in the indictment, but not voluntarily.

2. And that he is therefore " not Guilty" of " voluntary culpable homicide" of any description.

No. 9. Indictment under Clause 295, with examples of mitigations pleaded under Clauses 297, 298 and 299.

Indictment for " Murder" under Clause 295. Defendant pleads guilty of " Manslaughter" under Clause 297.

Finding—" Manslaughter."

Charge against A B.

1. That A B at ——— on the ———, drew his sword upon B C, and therewith inflicted upon him a wound whereof B C died on the ————.

2. That the said A B thereby intended to cause the death of B C, or knew it to be likely that he would thereby cause the death of B C.

3. And is guilty of " voluntary culpable homicide" of the description designated as " Murder" in Clause 295 of the Penal Code.

DEFENCE.

1. A B admits the facts alleged in Clause 1 of the indictment, and also the allegation in Clause 2, that he knew it to be likely that he would cause the death of B C by wounding him as described in Clause 1.

2. But pleads in mitigation under Clause 297 of the Penal Code, that he drew his sword and attacked B C, and wounded him on grave and sudden provocation caused by B C striking him with a horsewhip.

FINDING OF THE COURT.

1. The Court finds that A B caused the death of B C in the manner related in the first Clause of the indictment.

2. But that he did so on grave and sudden provocation as pleaded in mitigation.

3. The Court therefore convicts A B of " voluntary culpable homicide" of the mitigated description designated as " Manslaughter" in Clause 297 of the Penal Code.

No. 10. Indictment for " Murder."

Defendant pleads guilty of " Manslaughter."

Finding—" Murder."

Charge against S.

1. That the said S on ———— at ———— stabbed T with a knife and inflicted on him a wound, which caused the death of T on the ————.

2. That S in so wounding T, intended or knew that he was likely thereby to cause the death of T.

3. And is guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

DEFENCE.

1. S admits the facts in the first Clause of the indictment.

2. And the allegation, that in stabbing T he knew that he was likely to cause his death.

3. But pleads in mitigation under Clause 297, that he stabbed T on grave and sudden provocation caused by T striking him.

FINDING OF THE COURT.

1- The Court finds that T died of a wound inflicted on him by S with a knife.

2. Which wound S inflicted knowing that he was likely thereby to cause the death of T.

3. Finds also, that S wounded T, being moved to sudden and violent passion by a blow given to him by T, but that the blow was given by T in the exercise of the right of private defence on an attempt being made by S to pull his nose.

4. The Court, therefore, with reference to the explanation under Clause 297, convicts S of "Murder," under Clause 295 of the Penal Code.

No. 11. Indictment for "Murder."

Defendant pleads "voluntary culpable homicide by consent," of which he is convicted.

Charge against O.

1. That O on ———— at ———— supplied P with a certain quantity of a drug called opium, and induced P to swallow it, and was present when he swallowed it, and that by the operation of the said drug P died on the ————.

2. That O knew that by swallowing the said opium P was likely to die.

3. That O is therefore guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

DEFENCE.

1. O admits, that he supplied the opium to P and was present when he swallowed it, and that P died by the operation thereof; also that

when he gave the opium to P to be swallowed by him, he knew that the effect of it would be mortal.

2. But pleads in mitigation under Clause 298 of the Penal Code, that he supplied the opium at the request of P, and was present with him when he swallowed it, at his desire, and that P swallowed the said opium by his own choice intending to put himself to death.

FINDING OF THE COURT.

1. The Court finds that O administered to P a quantity of opium, which being swallowed by P, caused his death, and that O administered the said opium to P and induced him to swallow it, knowing that it was likely to cause his death.

2. That P voluntarily swallowed the said opium on the persuasion of O, having full knowledge that it would probably cause his death.

3. The Court on this finding, convicts O of "voluntary culpable homicide by consent," under Clause 298 of the Penal Code.

No. 12. Indictment for "Murder."
Defendant pleads that he acted in self-defence.
Finding "voluntary culpable homicide in defence."
Charge against M.

1. That on the ——— day of ——— at ———, M having had an altercation with N drew out a pistol, and therewith shot him dead.

2. That M intended thereby to cause the death of N, and is guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

DEFENCE.

1. M admits that he caused the death of N by shooting him with a pistol, and that he did so intentionally.

2. But pleads "not Guilty" under Clause 74 of the Penal Code, averring that he acted in self defence to prevent himself from being dishonored by N assaulting him in a disgraceful manner, which he had threatened to do, and which he was on the point of attempting to do, he, M, having no other way of preventing himself from being assaulted in the manner threatened by N.

FINDING OF THE COURT.

1. The Court finds that M caused the death of N by shooting him with a pistol intending thereby to cause his death.

2. And that he did so to prevent himself from being assaulted by N.

3. But that the assault apprehended does not fall under any of the descriptions enumerated in Clause 76 of the Penal Code, and that the defendant is therefore guilty of "voluntary culpable homicide."

4. Considering such as was threatened by N, and which he was on the point of attempting to commit would have warranted M under Clause 77, in defending himself by causing any harm other than death to the assailant, the Court finds that the offence is mitigated, and convicts M of "voluntary culpable homicide in defence" according to Clause 299.

No. 13. Indictment for "Manslaughter" under Clause 297.
Defendant pleads the exception in Clause 76.
Finding—"Manslaughter."
Charge against U.

1. That the said U, about sunset on the ——— having found a person named W in his house at ——— in the act of taking indecent liberties with his wife X, with an axe, which he had in his hand at the moment, struck a blow upon the head of W, which caused his death on the ———

2. That the said U inflicted the said blow on W, knowing that he was likely thereby to cause his death, being moved thereto by violent passion suddenly excited by the offensive act of W as aforesaid.

3. That U is therefore guilty of "Manslaughter" under Clause 297 of the Penal Code.

DEFENCE.

1. The defendant U admits that W died in consequence of a blow which he inflicted on his head with an axe as stated in the first Clause of the indictment.

2. And that he inflicted the blow knowing that he was likely to cause the death of W thereby.

3. But pleads that he inflicted the said blow on W in defence of his wife X to save her from an assault, which W was making upon her with intention to commit rape, and that under the exception in Clause 76, he is not guilty of "Manslaughter," or of any offence on account of the death of W.

FINDING OF THE COURT.

1. The Court finds that the death of W was caused by a blow inflicted upon him by U with an axe.

2. The Court does not find that W was at the time in the act of assaulting X, the wife of W, with the intention of committing rape upon her.

3. But finds that U having an axe in his hand was moved to strike W therewith by an impulse of violent passion suddenly excited by seeing him take indecent liberties with his wife.

4. And therefore convicts W of "Manslaughter" under Clause 297 of the Penal Code.

No. 14. Indictment for "voluntary culpable homicide by consent" under Clause 298.

Defendant confesses the facts.

Finding—"Guilty."

That Z, widow of X, who died on the ——— at ——— having on the following day at ——— placed herself by the corpse of the deceased on the pile prepared for burning the corpse, A kindled the pile, the burning of which caused the death of Z.

2. That A set fire to the pile, knowing that the death of Z would be caused thereby at the request and with the consent of Z, who, of her own choice, had resolved to be burned with the corpse of her husband.

3. That A is therefore guilty of "voluntary culpable homicide by consent" under Clause 298 of the Penal Code.

DEFENCE.

Note.—Here though the defendant confesses the act with which he is charged there must be independent proof of the other facts alleged in the indictment as mitigatory.

The defendant confesses the facts alleged in the indictment, and submits himself to the judgment of the Court.

FINDING OF THE COURT.

1. The Court finds that Z, widow of X, having resolved to be burned with the corpse of her husband A, at her request, set fire to the pile, prepared for burning the corpse on which she had placed herself, and that the death of Z was caused by the burning thereof.

2. The Court therefore convicts A of "culpable homicide by consent" under Clause 298 of the Penal Code.

No. 15. Indictment for "voluntary culpable homicide in defence" under Clause 299.

Defendant confesses.

Charge against Z.

1. That on ——— at ———, A having stolen a horse belonging to Z, and being in the act of riding away upon it, Z, in order to rescue his property, fired a pistol at him, and therewith shot him dead.

2. That Z knew when he fired the pistol that it was loaded with a ball, and that by firing it at A, he was likely to cause his death.

3. That Z therefore has committed the offence of "voluntary culpable homicide," but that it is of the mitigated description defined in Clause 299, by reason that it was committed by Z in an endeavour to rescue his property stolen by A.

DEFENCE.

Note.—Although the defendant admits the facts there must be independent proof that A stole the horse from Z, and was in the act of riding away with it when he was shot by him.

The defendant admits the facts, and submits himself to the judgment of the Court.

FINDING OF THE COURT.

1. The Court finds that the death of A was caused by Z, in the manner stated in the indictment, with the intention of rescuing property stolen from him by A.

2. But that Z was not in fear of death or hurt from A, and is therefore guilty of "voluntary culpable homicide" of the mitigated description designated in Clause 299, as "voluntary culpable homicide in defence."

No. 16. Indictment for "Murder" under Clause 295. The party accused, having caused the death of a certain person by an act *intended to cause the death of a different person.*

A is charged as follows:

1. That A on ——— at ——— fired a gun loaded with a bullet, by which bullet B was struck and wounded, and of the wound died on the same day.

2. That A fired the gun as aforesaid, intending thereby to cause the death of D, and is guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

FINDING OF THE COURT.

1. The Court finds that A on ——— at ——— fired a gun loaded with a bullet, by which bullet B was struck and wounded, and of the wound died on the same day.

2. And that A fired the gun as aforesaid, intending thereby to cause the death of D.

3. The Court, therefore, with reference to Clauses 295 and 296 of the Penal Code convicts A of "Murder."

No. 17. Indictment under Clause 295, for an *omision* intended, or known to be likely to cause the death of a certain person, causing the death of another person.

A is charged as follows:

1. That A being legally bound to furnish food to Z, the mother of a sucking child, omitted to furnish the said Z with food from the morning of the 1st to the evening of the 5th day of ———, in consequence of which her milk failed, and her child, a girl aged 3 months, died of starvation on the said 5th day of ———.

2. And that A so omitted to furnish Z with food intending to cause her death, or knowing it to be likely that he would cause her death thereby, and is therefore guilty of "voluntary culpable homicide" of the description designated as "Murder," in Clause 295 of the Penal Code.

FINDING.

1. The Court finds that A was legally bound to furnish Z with food, and that he omitted to supply food to her from the morning of the

1st to the evening of the 5th day of ———, and that on the 5th day of ———, the child of Z, which she was suckling, a girl three months old, died of starvation, in consequence of the failure of her mother's milk, caused by A's omission to supply the said Z with food.

2. And that A so omitted to supply Z with food, knowing that by such omission he was likely to cause her death.

3. The Court, therefore, with reference to Clauses 295 and 296 of the Penal Code convicts A of "Murder."

No. 18. Indictment against two persons on account of the death of a third person by a shot fired by one of the two at the instigation of the other.

Charge against A.

1. That on the ——— at ———, A, knowing that Z was passing by a public path behind a certain bush, induced B to fire a gun loaded with ball at the bush, and that the shot fired by B inflicted a wound on Z, which caused his death on the ———.

2. That A induced B to fire the gun, intending to cause, or knowing that he was likely thereby to cause the death of Z, and that he is therefore guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

Charge against B.

1. That B fired the shot, which caused the death of Z, knowing that a public path ran behind the bush at which he aimed without having taken precaution to prevent injury to any person, who might be passing by the said path.

2. That his act was so rash and negligent as to indicate a want of due regard for human life.

3. And that he is therefore guilty of the offence defined in Clause 304 of the Penal Code.

FINDING OF THE COURT ON THE CHARGE AGAINST A.

1. The Court finds that Z was wounded by a shot fired from a gun by B, and died of the wound.

2. That A induced B to fire the said shot at a certain bush, knowing that Z was at the moment passing behind the bush, and intending to cause, or knowing that he was likely thereby to cause the death of Z.

3. And that A is therefore guilty of "Murder" under Clause 295 of the Penal Code.

On the charge against B.

1. The Court finds that B fired the shot which caused the death of Z, knowing that a public path passed behind the bush at which he aimed

without having taken precaution to prevent injury to any person who might be passing by the said path.

2. And convicts him of the offence defined in Clause 304 of the Penal Code, considering that the said act was so rash and negligent as to indicate a want of due regard for human life.

No. 19. Indictment in the alternative with regard to the intention.

A B is charged as follows:

1. That A B on the ———— at ———— inflicted blows with a staff on the head of C D, whereby the skull of C D was fractured, in consequence of which injury he died on the ————

2. That A B inflicted the said blows on the head of C D, with the knowledge that he was likely thereby to cause the death of C D;

OR,

With the intention of causing grievous hurt to C D, and in a manner indicating a want of due regard for human life.

3. And that A B is therefore guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code;

OR,

Of the offence described in Clauses 304 and 319 of the Penal Code.

FINDING.

1. The Court finds that A B inflicted blows on the head of C D, by which the skull of C D was fractured, and that C D died in consequence.

2. That A B inflicted the said blows on C D with the intention of causing grievous hurt to him, and in a manner indicating a want of due regard for human life.

3. The Court therefore convicts A B of the offence defined in Clause 304 of the Penal Code and of the offence of "grievous hurt," under Clause 319, for which offences A B is liable under Clause 305 to cumulative punishment.

No. 20. Indictment against two persons for "voluntary culpable homicide," and against a third party for abetment thereof by instigation.

Charge against A B and C D.

1. That the said A B and C D, on a certain day, between the new and full-moon, in the month of ———— between the hours of 8 and 9 at night, having induced E F to accompany them to a place within the precincts of ———— near to a well called ———— then and there caused the death of E F by severing his head from his body with a bill hook, and threw the body into the said well.

2. And that the said A B and C D caused the death of E F "voluntarily," and are guilty of "voluntary culpable homicide" of the description designated as "Murder" in Clause 295 of the Penal Code.

Charge against G H, the widow of E F, deceased.

1. That the said G H instigated A B and C D to commit the offence of "Murder," by causing the death of E F, with which offence they are charged in the former part of this indictment, and is guilty of the offence defined in Clause 88 of the Penal Code.

FINDING ON THE CHARGE AGAINST A B AND C D.

1. The Court finds that A B and C D caused the death of E F, at the place and in the manner described in the indictment.

2. And that A B and C D caused the death of E F voluntarily.

3. The Court therefore convicts A B and C D of "Murder," under Clause 295 of the Penal Code.

FINDING ON THE CHARGE AGAINST G H.

The Court finds G H "not Guilty."

No. 21. Indictment for an attempt to commit "Murder," under Clause 308.

Finding—Guilty of an attempt to commit "Manslaughter," under Clause 309.

Charge against S.

That the said S on the ——— at ——— fired a pistol loaded with ball at T, intending thereby to cause the death of T, and is therefore guilty of the offence defined in Clause 308 of the Penal Code.

FINDING OF THE COURT.

1. The Court finds that S fired a pistol loaded with ball at T, as alleged in the indictment, knowing that he was likely thereby to cause the death of T.

2. But that S fired the said pistol at T, on grave and sudden provocation caused by T, forcing his way into the apartments occupied by the female members of S's family.

3. The Court therefore convicts S of the offence defined in Clause 309 of the Penal Code, considering that if T had been killed by the shot fired by S, the latter would have been guilty of "voluntary culpable homicide" of the mitigated description designated as Manslaughter in Clause 297.

No. 22. Another Indictment under Clause 308.

Charge against X.

1. That the said X being employed as a cook in the service of Y, in the house of Y, at ——— on the ——— in preparing food for

the evening meal of Y, mixed therewith a quantity of poison, and delivered the dish, containing the food so mixed with poison to Z, another servant of Y to be placed before Y, expecting that Y would eat of it, and intending thereby to cause the death of Y.

2. And that X is therefore guilty of the offence defined in Clause 308 of the Penal Code.

No. 23. Indictment for causing a woman to miscarry, under Clause 312.

Charge against A.

1. That the said A on the ——— at ——— induced B, a widow then being with child, to swallow a quantity of a certain drug called ——— with intention to cause her to miscarry, and that B miscarried in consequence on the ———

2. That A is therefore guilty of the offence defined in Clause 312 of the Penal Code.

Note.—An indictment will not be preferred when it *manifestly* appears by the evidence taken by the Subordinate Court that "the miscarriage was caused in good faith for the purpose of saving the life of the woman," according to the terms of the exception in Clause 312.

When an indictment is preferred, it will be a good defence to shew that "the miscarriage was caused in good faith, &c."

No. 24. Indictment for causing grievous hurt under Clauses 317 and 319.

Charge against A.

1. That the said A on the ——— at ——— struck B a blow with a club on the right arm, by which blow the arm was fractured.

2. And that A in so striking B intended to cause grievous hurt to him, and is guilty of the offence defined in Clause 317 of the Penal Code, and is liable to punishment under Clause 319.

No. 25. Indictment under Clause 320 for hurt in an attempt to commit murder.

Charge against A.

1. That the said A on the ——— at ——— fired a pistol at B, by the shot from which B was wounded in the left shoulder, and has thereby permanently lost the perfect use of the shoulder joint.

2. And that the said A fired the pistol at B as aforesaid, with intent to murder B, and is therefore guilty of the offence defined in Clause 320 of the Penal Code.

No. 26. Indictment under Clause 323.
Charge against A.

1. That the said A on ———— at ———— put an explosive substance under the seal of a letter directed to B, which letter he caused to be delivered to B in his house at ———— on the same day, and that he caused hurt to B, by the explosion of the said substance on his breaking the seal of the letter.

2. That the said A intended to cause hurt to B in the manner aforesaid, and is guilty of the offence defined in Clause 323 of the Penal Code.

No. 27. Indictment under Clauses 354 and 355 for Kidnapping.
Charge against A.

1. That the said A on the ———— took B, a boy under seven years of age, on board of the Ship ————, then in the River Hooghly about to go to Sea, with the intention of causing the said boy to be conveyed beyond the limits of the territories of the East India Company, the said boy being from his youth unable to give an intelligent consent, and without the consent of any person legally authorized to consent on his behalf.

2. And that the said A is therefore guilty of the offence defined in Clause 354 of the Penal Code, and is punishable under Clause 355 of the same.

No. 28. Indictment for Rape under Clause 359.
Charge against A.

That the said A (here give an exact statement of the circumstances of time and place) had sexual intercourse with B, the wife of C, against her will, and is guilty of Rape, under Clause 359 of the Penal Code.

INDICTMENTS FOR ABETMENT UNDER CHAPTER IV.

No. 29. Indictment under Clause 90.
Charge against A.

1. That the said A being the plaintiff in a suit No. —— of 1847, in the Court of the Principal Sudder Ameen of ———— upon a bond of 10,000 Rupees, alleged to have been executed by C, caused the sum of 500 Rupees to be paid to B at ———— on the ———— to induce him to give false evidence in the said suit to the effect that he was present when the said bond was executed by C.

2. And that A is therefore guilty of the offence defined in Clause 90 of the Penal Code.

No. 30. Indictment under Clause 88.

Charge against A.

1. That the said A having intelligence that E, a Soucar at ——— had sent a sum of money by two of his servants, F and G, to be carried by them to ————, and that they were to halt during the night of the ———— in the building for the use of travellers at ———— employed a gang of six persons, namely, B, C and D, and three other persons, whose names are unknown, to rob them of the money in their charge, and that the said B, C and D, and three other persons unknown, about 12 P. M., on the ————, made an attack upon E and F in the said building at ————, and under threat of instant death caused them then and there to deliver up the money in their charge, viz. 5,000 Company's Rupees in two bags, each containing 2,500 Company's Rupees.

And that A is therefore guilty of previously abetting by instigation the offence of dacoity, which was committed as aforesaid, by B, C and D and others.

Note.—This form of indictment is applicable to a case in which the abetter is brought to trial before the persons who committed the offence have been apprehended. In general, in cases in which it must be charged that the offence has been committed, the abetter will be included under a distinct charge in the same indictment with the actors in the offence, and will be tried along with them, vide the example in Nos. 21, 32 and 33.

No. 31. Indictment under Clause 95, applicable to the case stated in the "explanation" annexed thereto.

A, B and C are charged as follows:

Charge against A.

1. That the said A in pursuance of a plan concerted by him and B, on the ———— at ————, mixed a quantity of arsenic procured for the purpose by B through the voluntary agency of C, with other ingredients, in a cake prepared by him to be eaten by Z, intending thereby to cause the death of Z, and that Z having eaten the said cake died by the operation of the poison contained therein on the ————.

2. And that A is therefore guilty of Murder under Clause 295 of the Penal Code.

Charge against B and C.

1. That the said B concerted with A the plan for poisoning Z and causing his death, executed by A in the manner stated in the charge against him, and that the said C, at the request of B, procured for him the arsenic wherewith Z was poisoned, knowing that it was intended to be used for the purpose of poisoning Z, and thereby causing his death.

2. And that the said B and C are therefore under Clause 95 of the Penal Code, guilty of previously abetting "Murder," by engaging in a conspiracy for the commission of that offence.

No. 32. Indictment under Clause 98.

A and B are charged as follows:

Charge against A.

1. That the said A between midnight and the hour of 1 A. M. on the ——— broke into the house of Z at ——— by entering through a window, intending to commit robbery, being armed with a pistol loaded with ball, and being resisted by Z, fired the pistol at him and shot him dead.

2. And that A having fired at Z, knowing that he was likely thereby to cause his death, is guilty of voluntary culpable homicide of the description designated as "Murder" in Clause 295 of the Penal Code.

Charge against B.

1. That the said B previously abetted A in breaking into the house of Z, with intent to commit robbery, by accompanying him to the place, and assisting him to enter the house by the window, and afterwards watching near the window to prevent interruption from without, and that B knew that A was armed with a loaded pistol, and that it was likely that he would fire it at any person who might resist him.

2. And that A is therefore guilty under Clause 98 of the Penal Code of previously abetting by aid the offence of housebreaking with intent to commit robbery under Clause 432, and also the offence of murder under Clause 295 of the Penal Code.

No. 33. Indictment for previous abetment by aid under Clause 98.

Finding under Clause 99.

Charge against A of abetting murder by aid.

Note.—In this example the aider is indicted alone, it being supposed that the principal actors have not been apprehended.

1. That the said A at the request of E and F voluntarily made preparations (here describe the preparations) for the burning of B, widow of C, a Bramin, who died at ——— on ———, with the corpse of her deceased husband, knowing that her death would be caused thereby.

2. That the said B was burned to death with the corpse of her husband by the means prepared, by A at ——— on ———, the fire having been lighted by E and F.

3. That B was at the time in a state of mind, which rendered her incapable of giving an intelligent consent, from the operation of something of an intoxicating nature voluntarily administered to her by E and F.

4. And that A is therefore guilty under Clause 98, of previously abetting the offence of "Murder" by aid.

DEFENCE.

The defendant admits that he voluntarily made preparations for the burning of B with the corpse of her husband C, and pleads guilty of previously abetting the offence of "voluntary culpable homicide by consent" under Clause 298, but not guilty of previously abetting "murder," as charged in the indictment, averring that he in good faith believed that B was capable of giving an intelligent consent, and had of her own free choice determined to suffer death by being burned in the funeral pile of her deceased husband, and that he was not privy to the administration to her by E and F of anything of an intoxicating nature.

FINDING OF THE COURT.

1. The Court finds that A, at the request of E and F, voluntarily made preparations for the burning of B with the corpse of her husband, believing in good faith, when he made such preparations, that B had voluntarily consented to suffer death by being burned with the corpse of her husband.

2. That B was burned to death with the corpse of her husband, by the means prepared beforehand by A, through the immediate agency of E and F, being at the time, in consequence of the administration to her by E and F of something of an intoxicating nature, incapable of giving an intelligent consent.

3. But that A was not privy to the act by which B was so rendered incapable of giving an intelligent consent.

4. The Court therefore acquits A of the previous abetment of "Murder," and convicts him under Clause 99 of the Penal Code, of the previous abetment by aid of "voluntary culpable homicide by consent."

INDICTMENTS FOR OFFENCES AGAINST THE STATE UNDER CHAPTER V.

No. 34. Indictment under Clause 109, for waging war against the Government.

Charge against A.

1. That the said A on the ——— joined a body of Soldiers in the service of ———, which had invaded the territories of the East India Company for the purpose of waging war against the Government of the Presidency of ———, and was then committing hostilities against the said Government in the Pergunnah of ——— in the Zillah of ———.

2. And that the said A is guilty of the offence of waging war against the Government of the Presidency of ——— under Clause 109 of the Penal Code.

No. 35. Indictment under Clause 109, for conspiracy to raise an insurrection.

Charge against A.

1. That the said A, at several times between the 1st and 15th of ———, and particularly on the 10th and 12th of that month, held meetings with E, F and G, in the house of E, at ———, and concerted with them a plan for raising an insurrection against the Government of the Presidency of ——— by means of a body of armed peons to be collected by the influence of the said F and G, and to be led by them to the attack of ———, the said A and E engaging to aid them with money.

2. And that the said A is therefore guilty of previously abetting by conspiracy the waging of war against the Government of the Presidency of ——— under Clause 109 of the Penal Code.

No. 36. Indictment under Clause 113.

Charge against Z.

1. That the said Z on the ——— at ——— wrote an address to the inhabitants of ——— containing the following words respecting the tax ordained by Act ——— of ——— of the Legislative Government of India.

"The tax which the Government is now attempting to impose "upon us is not to be borne. If we submit to it, we shall be subject to "fresh exactions by this grasping Government. It will be of no use to "petition. We must resist. We must show our strength. Let us "with one consent shut up our shops and places of business and retire "to our dwelling houses, declaring boldly, that if any attempt is made "to coerce us by seizing our persons or our property, we will visit him, "who makes the attempt, with our vengeance."

2. And that the said Z caused many copies of the said address to be circulated, intending that the words above cited, should be read by the inhabitants of ———, and designing thereby to excite among them feelings of disaffection to the Government of India.

3. And that the said Z is therefore guilty of the offence defined in Clause 113 of the Penal Code.

No. 37. Another indictment under Clause 113.

Charge against Z.

1. That the said Z, on ——— at ———, addressed to a large body of the inhabitants of ——— then and there assembled, the following words respecting the tax ordained by Act No. ——— of ——— of the Legislative Government of India (the same words as in the last example.)

2. And that the said Z, in speaking the words above cited, intended to excite feelings of disaffection to the Government of India among the inhabitants of ————, and is guilty of the offence defined in Clause 113 of the Penal Code.

No. 38. Indictment for an offence against the public tranquility under Clause 133 of Chapter VII.

Charge against A, B and C.

1. That the said A, B and C on the ———— at ———— joined with D and others in a riotous assembly, and while they were jointly committing the offence of rioting, the said D inflicted a wound upon Z, by stabbing him in the back with a dagger, intending thereby to cause his death, of which wound the said Z died on the ————.

2. And that "Murder" having been thus committed by D, the said A, B and C being his accomplices in the offence of rioting, are liable to punishment under Clause 133 of the Penal Code.

No. 39. Indictment for offences under Chapter VIII.

Indictments under Clause138.

Charge against A.

1. That the said A being a Covenanted Servant of the East India Company, holding the office of Collector of the ———— of ————, in the Presidency of ———— on the ———— received from B, a Soucar of the city of ———— the sum of ————, on loan promising in consideration thereof to appoint C, the nephew of B, to the situation of ———— in the Cutchery of the said Collector.

2. And that the said A is therefore guilty of the offence defined in Clause 138 of the Penal Code.

No. 40. Indictment under Clause 141.

Charge against X, Principal Sudder Ameen of ————.

1. That on the ———— the said X, while holding the office of Principal Sudder Ameen of ———— accepted from Z, being the plaintiff in No. —— on the file of his Court as Principal Sudder Ameen of ————, a pair of Cashmere Shawls, valued at ———— as a gift from the said Z, knowing that he was the plaintiff in the said suit then pending before him in his judicial capacity.

2. And that X is therefore guilty of the offence defined in Clause 141 of the Penal Code.

No. 41. Indictment under Clause 142.

Charge against T, Principal Sudder Ameen of ———.

1. That the said T, as Principal Sudder Ameen of ———, by his decree in the suit between A plaintiff, and B, defendant, in No. ———, in the file of his Court from partiality to A, unjustly awarded to A, the property (description) which was the subject of dispute between the parties, unwarrantably assuming certain facts material to the issue to be true on the mere allegation of the plaintiff without proof, and with designed unfairness rejecting pertinent and sufficient evidence legitimately offered by the defendant on the pretence of its being irrelevant.

2. And that the said T having passed the said decree, knowing that it was unjust, is guilty of the offence defined in Clause 142.

No. 42. Indictment under Clause 162 of Chapter IX.

Charge against A.

1. That the said A on the ——— being under examination on oath by ——— Judge of the Zillah Courts of ——— under Section XI. Regulation II. of 1806 of the Bengal Code, touching the property belonging to him available in satisfaction of a decree of the said Court against him in No. —— of ——— falsely stated to the said Judge that a certain house situated at ——— (here enter a description of the house) was not his property, knowing that such statement was false.

Vide Construction No. 1086, vol. 2, p. 306.

2. And that the said A is therefore guilty of the offence defined in Clause 162 of the Penal Code.

INDICTMENTS FOR OFFENCES AGAINST PUBLIC JUSTICE UNDER CHAPTER X.

No. 43. Indictment for giving false evidence under Clauses 188 and 190.

Charge against A.

1. That the said A on the ——— having been sworn to state the truth as a witness in a suit No. —— under trial in the Zillah Court of ——— in answer to a question put to him by the Judge of the said Court falsely stated* that he was not present on the ——— at ——— when B acknowledged to C that he was indebted to him in the sum of ——— the balance of an account then and there settled between the said B and C, and promised to pay the same to C in six months.

* It does not appear to be necessary to set forth the very words used in making the false statement, but the substance only of the statement.

2. And that the said A made the above statement, touching a point material to the result of the cause under trial in the said suit, knowing what he stated as true to be false.

3. And is guilty of giving false evidence under Clause 188, and liable to punishment under Clause 190 of the Penal Code.

No. 44. Indictment for fabricating false evidence under Clauses 189 and 190.

Charge against A.

1. That the said A having instituted a suit against Z, in the Court of the Principal Sudder Ameen of ——— in No. ——, for the sum of 5,000 Rupees, due by Z to A, on a bond, produced in evidence before the said Court in the trial of the said suit, a document for 5,000 Rupees purporting to be a Bond granted by Z to A, bearing date the ———, which document is "a forged document," the signature of Z, appearing therein, having been forged by A.

Note.—It does not appear to be necessary to set out a copy of the document.

2. And that the said A forged the signature of Z to the said document, purposing to institute a suit against Z in the said Court, and intending to produce the said document in evidence in the said Court in support thereof, with a view to cause the Court to entertain an erroneous opinion touching the cause of action.

3. And is guilty of fabricating false evidence under Clause 189, and liable to punishment under Clause 190 of the Penal Code.

No. 45. Indictment under Clause 195.

Charge against A.

1. That the said A being the Register of Deeds at ——— on the 1st December 1847, at ——— endorsed on a certain deed purporting to be a Deed of Sale (here enter particulars) a certificate purporting to be a certificate of the registry of the said Deed, made according to the forms prescribed by law, declaring that the said Deed was registered on the 1st August 1847, and attested the same with his signature, knowing that the said Deed was not registered on the said date, but on the 1st December 1847.

2. And that the said A is guilty of the offence defined in Clause 195 of the Penal Code.

INDICTMENTS UNDER CHAPTER XV.

Note.—It is proposed in para. 270, of the 2d Report on the Penal Code, that the offences defined in Clauses 275 to 281, shall be placed in Chapter XVII.

No. 46. Indictment under Clause 275, for defiling a Mosque.

1. That the said A, B and C in the night between the 15th and 16th of ——— voluntarily defiled the Mosque of ——— in the street called ——— in the town of ———, by placing at the principal entrance of the said Mosque the carcase of a hog, with the knowledge that the inhabitants of the said town professing the Mahomedan religion were likely to consider such defilement an insult to their religion, and intending thereby to insult their religion.

2. And that the said A, B and C are guilty of the offence defined in Clause 275 of the Penal Code.

No. 47. Indictment under Clause 282.

Charge against X, Y and Z.

Note.—It is proposed that this Clause shall be placed in Chapter XXVI. after Clause 486.

That the said X, Y and Z, on the ———, in the street, called ———, in the town of ———, followed A, a Minister of the Christian religion, who was going peaceably about his own business, uttering words in his hearing and in the hearing of all the passersby, by which they intended to insult* his religious feelings, viz., words to the following effect: "Here is one of the deceivers who go about telling lies, wanting us to believe in a God, who was hanged as a thief," and other words in abuse of the Christian religion, wherefore the said X, Y and Z are guilty of the offence defined in Clause 282 of the Penal Code.

* The word "insult" is inserted instead of "wound" in conformity with the recommendation in para. 253 of the 2d Report on the Penal Code.

No. 48. Another Indictment under Clause 282.

Charge against A, a Christian Missionary.

That on the ——— while B, C and D and others were sitting together by the tank, near to the Great Pagoda, in the village of ———, and were singing sacred songs in honor of Siva, the said A rudely intruded upon them, and interrupted them in their singing, by addressing to them offensive words in contempt of Siva and in disparagement of their religion, viz., (here set out some of the insulting words, or the purport thereof, as in the first example,) intending thereby to insult their religious feelings, wherefore the said A is guilty of the offence defined in Clause 282 of the Penal Code.

INDICTMENTS FOR OFFENCES AGAINST PROPERTY UNDER CHAPTER XIX.

No. 49. Indictment under Clause 364 for theft of property of a value exceeding 300 Rupees.

Charge against A.

1. That the said A being a servant in the house of B, sometime between sunset, on the 15th and sunrise of the 16th of ——— opened a box kept in a room of the said house, used by B for the transaction of his business, and took therefrom and carried away a bag containing four hundred Company's Rupees until then in the possession of B, intending to take the same fraudulently out of the possession of B without his consent.

2. And that A is therefore guilty of theft under Clause 363 of the Penal Code, and is punishable under Clause 364 of the same.

No. 50. Indictment under Clause 390, for receiving stolen property.

Charge against C.

1. That the said C on the 16th of ——— received from A a bag containing 400 Company's Rupees, stolen by A from B, knowing that the same was stolen property.

2. And that A is therefore guilty of the offence of receiving stolen property under Clause 390 of the Penal Code.

No. 51. Indictment under Clause 365.

Charge against A.

1. That the said A being a servant employed in the dwelling house of B, at ———, in pursuance of a conspiracy with C, a person not residing nor employed in the said house on ———, fraudulently took, and, with the assistance of C, carried away from the said dwelling house, and out of the possession of B, a box containing sundry jewels to the value of 1000 Company's Rupees, viz., (here enter a list describing the jewels.)

2. And that the said A is guilty of the offence defined in Clause 365 of the Penal Code.

No. 52. Indictment in the alternative for theft under Clause 363, or Criminal Breach of Trust under Clause 386.

Charge against A B.

1. That A B being a Sircar in the service of C D, and in that capacity having been sent by C D to receive from E F the sum of 500 Rupees due by E F to C D, and having on the ——— day of ——— at ——— received the said sum of 500 Rupees from E F, in trust for C D, as his servant, took and carried away the said sum of money without the consent of C D, and applied it to his own use.

Vide Clause 17.

2. Intending thereby to take fraudulently the said property, which had been put legally into the possession of C D by the delivery of it to A B, as his servant, in trust for him, out of his possession, without his consent;

OR,

Intending fraudulently to cause wrongful loss to C D, for whom he received the said property in trust, in violation of his implied contract with C D, touching the said property.

3. And that A B is therefore guilty of "theft" according to Clause 363 of the Penal Code;

OR,

of "Criminal Breach of Trust" according to Clause 386.

FINDING OF THE COURT CONVICTING OF THEFT POSITIVELY.

1. The Court finds that A B being the servant of C D, received from E F on the ——— day of ——— the sum of 500 Rupees in trust for C D, which money being then legally in the possession of C D, the said A B took and carried away and applied to his own use.

2. And that A B intended to take fraudulently the said property out of the possession of C D without his consent.

3. The Court therefore convicts A B of "theft" under Clause 363 of the Penal Code.

FINDING IN THE ALTERNATIVE UNDER CLAUSE 61.

1. The Court finds that A B being the servant of C D, received from E F on ——— at ——— the sum of 500 Rupees in trust for C D, which money A B took and carried away and applied to his own use without the consent of C D.

2. And that A B is therefore guilty either of theft under Clause 363, as having intended fraudulently to take the said property, which had been put legally into the possession of C D, by the delivery of it to A B, as his servant, in trust for him, out of his possession without his consent, or of Criminal Breach of Trust under Clause 386, as having intended fraudulently to cause wrongful loss to C D for whom he was in trust, in violation of his implied contract with him touching the said property.

No. 53. Indictment for extortion under Clause 368.

Charge against A.

1. That the said A on the ——— at ——— by threatening to publish a false charge against B, a public Officer, imputing corruption to him in the discharge of his office, unless B gave him a sum of money, induced B to give him a sum of money amounting to Rupees ———.

2. And that the said A is therefore guilty of extortion under Clause 368, and is liable to punishment under Clause 369.

No. 54. Indictment for Robbery under Clause 375.

Charge against A.

1. That the said A on the ——— in the road leading from the town of X to the village of Y at sunset, stopped B, who was passing by the said road towards Y, and under threat of instant hurt to him, if he offered resistance, fraudulently took from him and carried away without his consent a purse containing 50 Company Rupees, an Armlet (description) valued at 100 Company's Rupees, and a Ring (description) valued at 40 Company's Rupees.

2. And that the said A under Clauses 363 and 375 of the Penal Code is guilty of robbery, and is punishable under Clause 377.

No. 55. Indictment under Clause 378 for an attempt to commit robbery.

Charge against A.

1. That the said A on the ——— in the road leading from the town of X to the village of Y at sunset, stopped B, who was passing by

the said road towards Y, and demanded the delivery of the money and other property he had about him on pain of instant hurt.

2. And that the said A is guilty of an attempt to commit robbery under Clause 378 of the Penal Code.

No. 56. Indictment for dacoity under Clause 376.

Charge against A and B.

1. That the said A and B, with six other persons unknown, all being armed with swords and spears about 9 P. M., on the ——— on the encamping ground on the west side of the village of ——— conjointly made an attack on C, D, E, F, who were resting for the night on the said ground, and fraudulently took from them without their consent under fear of instant death, and carried away out of their possession, a bag containing 100 Goldmohurs, 2,000 Company's Rupees and 1,000 Company's half Rupees, which they then and there had in their charge.

2. And that the said A and B are guilty of dacoity under Clause 376 of the Penal Code, and are punishable under Clause 379.

No. 57. Indictment under Clause 383.

Charge against A.

1. That the said A, on the ———, having found a pocket-book on the public road between ——— and ———, which contained a note of the Bank of Bengal for 500 Rupees (enter number and date of the note), and having learned by a writing in the pocket-book that it belonged to B, nevertheless, fraudulently took the same into his possession, and presented the said note at the Bank of Bengal for payment on the ———, and thereupon received from the Bank the said sum of 500 Company's Rupees in cash.

2. And that the said A is therefore guilty of criminal misappropriation of property not in possession under Clause 383 of the Penal Code, and is punishable under Clause 384 of the same.

No. 58. Indictment under Clause 386.

Charge against A.

1. That A being a public servant of the Government of Bengal, holding the office of Treasurer under the Collector of Zillah ——— and being officially entrusted with the receipt of the public money brought to be paid into the Treasury under his charge, and having on the 10th ——— received public money to the amount of 20,000 Rupees to be paid into the said Treasury, actually paid into the Treasury the sum of 15,000 Rupees only, and appropriated to his own use the remaining sum of 5,000 Rupees, intending thereby to cause wrongful loss to the Government of Bengal, for which he received the said money

in trust, and in violation of the implied contract made by him with the said Collector, under whose authority he was entrusted with the receipt of the money.

2. And that the said A is therefore guilty of Criminal Breach of Trust under Clause 386, and is punishable under Clause 387 of the Penal Code.

No. 59. Indictment under Clause 413.

Charge against A.

1. That the said A on the ——— between 9 and 10 P. M., set fire to the dwelling house of B, in the street called ——— in the town of ———, intending thereby to cause the destruction of the said dwelling house.

2. And that the said A is therefore guilty of the offence defined in Clause 413 of the Penal Code.

No. 60. Cumulative indictment for lurking house trespass under Clause 421, and theft under Clause 363.

Charge against S.

1. That the said S, ——— on ———, between sunset and midnight, secretly entered the house of T, at ———, without his consent, and carried off from it certain property, viz. (here enter a description of the property,) which was then and there in the possession of T.

2. Intending to take fraudulently the said property out of the possession of T.

3. And that S is therefore guilty of "lurking house trespass" under Clause 421, and of theft under Clause 363 of the Penal Code.

INDICTMENTS FOR OFFENCES RELATING TO DOCUMENTS UNDER CHAPTER XX.

No. 61. Indictment under Clause 444 of Chapter XX., for forging a valuable Security.

Charge against A.

1. That the said A, on or before the 1st December 1846, made a Document, bearing date the 10th October 1845, purporting to be a Bond, obliging B to pay to A the sum of 2,000 Company's Rupees, and forged the signature of B thereto, intending that it might be believed by the Executors of B, who died on the 2d November 1846, that the said Document was a genuine Bond, duly executed by B, and that they might be induced to pay to him the said sum of 2,000 Company's Rupees, to the injury of the heirs of B.

2. And that A having so forged a Document, purporting to be a valuable Security with the intention aforesaid, is guilty of the offence defined in Clause 444 of the Penal Code.

No. 62. Indictment under Clause 445.
Charge against A.

1. That the said A at Agra, on or before the ———, made a Document, bearing date the ———, purporting to be a Bill of Exchange for 5,000 Rupees, payable 6 months after date, drawn by A and Co. of Madras on B and Co. of Calcutta, and forged the signature of A and Co. as drawers of the Bill, and of B and Co. as acceptors of the same, intending to use the Document so forged as genuine for the purpose of cheating, in pursuance of which intention he on the ——— presented the said Document as a genuine Bill of Exchange for discount to C, a banker at Agra.

2. And that the said A is guilty of the offence defined in Clause 445 of the Penal Code.

No. 63. Indictment under Clause 449.
Charge against A.

1. That on search of the house of A, at ———, on ———, under a warrant from ———, Magistrate of ———, there was found in the possession of A, in the said house in a chest of which he had the key a forged Document, purporting to be a Promissory Note of the Bank of Bengal, for 100 Company's Rupees, marked as No. ——, of ——— and bearing date ———, with other forged Documents of the same description.

2. That the said A had the said forged Documents in his possession, intending or knowing it to be likely that it might be used as genuine to the injury of some party, and is guilty of the offence defined in Clause 449 of the Penal Code.

INDICTMENT FOR OFFENCES RELATING TO MARRIAGE UNDER CHAPTER XXIV.

No. 64. Indictment under Clause 466.
Charge against A.

1. That the said A, a British subject, professing the Christian Religion, and a Member of the Church of England, being already lawfully married to B, and she being still alive and the marriage undissolved, on the ——— at ———, went through the form of marriage according to the usage of the Church of England with C, also a professor of the Christian Religion, and a Member of that Church, concealing from her the fact of his prior subsisting marriage, and thus by deceit caused C

to believe that she was lawfully married to him and to cohabit with him in that belief.

2. And that the said A is therefore guilty of the offence defined in Clause 466 of the Penal Code.

No. 65. Indictment under Clause 468.

Charge against A.

1. That the said A, a British subject, being a Subscriber to the ——— Fund, from which the Widows of Subscribers are entitled to pensions, with the fraudulent intention of securing a pension from the said Fund after his decease to C a woman living with him as his Mistress, on the ——— at ———, went through the ceremony of marriage with the said C according to the usage of the Church of England, of which both parties were professed Members; and in conformity with the Law of marriage applicable to British subject in the territories of the East India Company, knowing that C was already lawfully married to D, who was still living, and that her marriage with him had not been dissolved.

2. And that A is therefore guilty of the offence defined in Clause 468 of the Penal Code.

INDICTMENT FOR DEFAMATION WITH EXAMPLES OF EXCEPTIONS PLEADED AND OF FINDINGS THEREUPON UNDER CHAPTER XXV.

No. 66. Indictment under Clause 469, exception pleaded under Clause 470.

Charge against A.

That on the ——— at ——— the said A intending to harm the reputation of B, in the estimation of C, declared to C that he knew B to be dishonest, and thereby committed the offence of defamation under Clause 469 of the Penal Code.

DEFENCE.

1. The defendant A admits that, in conversation with C, he imputed dishonesty to B.

2. But pleads "not Guilty of defamation" under Clause 470 of the Penal Code, on the ground that he imputed dishonesty to B truly with reference to his conduct as Trustee for E, in not having accounted for certain monies, which came into his hands as such Trustee, and that he made the imputation in good faith for the public benefit, knowing that B was a candidate for a public office of trust, viz. (here describe the office) in the appointment to which C had a voice.

Note.—This is inserted on the supposition of Clause 470 being altered according to the suggestion in para. 390 of the Second Report on the Penal Code.

Finding of the Court, disallowing the exception pleaded for want of proof *of the truth of the imputation.*

1. The Court finds that the defendant A made a communication to C imputing dishonesty to B as alleged in the indictment, believing that

B was a candidate for a public office in the appointment to which C had a voice, and that he made the communication in good faith for the public benefit but that A has not established the truth of the said imputation.

2. The Court therefore convicts A of defamation under Clause 469 of the Penal Code, for which he is liable to punishment under Clause 479.

Another finding, disallowing the exception for want of proof *that the communication was for the public benefit.*

1. The Court finds no reason to believe that the defendant A made the communication, which he confesses to have made to C, imputing dishonesty to B in good faith, for the benefit of the public, it appearing in evidence that B was not a candidate for the office for which A alleges that he was a candidate, and that in making the said communication to C, A did not mention that B was a candidate for it.

2. The defendant having confessed the imputation made by him concerning B in the indictment, and having failed to establish that he made that imputation from good faith for the public benefit, which is an essential part of the exception pleaded by him under Clause 470, the Court without enquiring into the truth of the imputation, finds him guilty of defamation under Clause 469.

FINDING OF THE COURT, ALLOWING THE EXCEPTION.

The Court finds that A truly imputed dishonesty to B, in not having accounted for monies received by him as Trustee for E, and that he made the imputation in good faith for the public benefit as alleged in his defence, and therefore under Clause 471, acquits him of defamation.

No. 67. Indictment under Clause 469. Exception pleaded under Clause 471.

Charge against A

1. That the said A wrote and caused to be published in the Newspaper, entitled the ——— issued at ——— on the ———, a letter addressed to the Editor of that paper, under the signature of ——— containing the following words: "The Judge of the Zillah Court, at "this Station, is notoriously unfit for his office, being a mere puppet in the "hands of his Serishtadar, who is in truth the Judge, and dictates the "decisions, which the nominal Judge delivers as his own," which words were meant to be understood as applying to C D, Judge of the Zillah Court of ———.

2. And that A by the said publication attempted to cause the public to believe that C D was incapable of discharging, and did not in fact discharge his public functions as Judge of the Zillah Court of ———, intending thereby to harm the reputation of C D, in the esti-

mation of the public, and that C D is therefore guilty of defamation under Clause 469 of the Penal Code.

DEFENCE.

1. A admits the allegations in the first Clause of the Indictment.

2. But pleads not guilty of defamation under the exception in Clause 471 of the Penal Code, averring that the opinion expressed concerning C D, in the publication, which is the ground of the charge, was expressed in good faith upon observation of his conduct in the discharge of his public functions.

FINDING OF THE COURT.

1. The Court finds that A, by the publication described in the first Clause of the Indictment, attempted to cause an imputation to be believed by the public concerning C D, the belief of which he knew would harm the reputation of C D in the estimation of the public.

2. And that A has not afforded any proof that he made such imputation upon C D in good faith, within the scope of the exception pleaded by him under Clause 471.

3. That A is therefore guilty of defamation under Clause 469, and liable to punishment under Clause 479 of the Penal Code.

A SPECIAL PLEADING TO THE SAME INDICTMENT.

1. The Defendant A admits the allegations in the first Clause of the Indictment.

2. But pleads not guilty of defamation under the exception in Clause 471, averring that in the letter the publication of which he admits be expressed in good faith what he believes to be a just opinion concerning C D, in regard to the discharge of his public functions founded, upon the conduct of C D in general, in allowing his Sherishtadar ——— to take a principal part in the trial of causes before him, and in consulting with him as to the judgments to be passed upon them, and in particular in allowing the said Sherishtadar ——— in a certain cause No.——wherein E was plaintiff, and F defendant, to deliver to him a written note, suggesting reasons for a decision in favor of the defendant, which reasons C D adopted in the judgment subsequently passed by him. •

FINDING OF THE COURT.

The Court acquits A of defamation under the exception in Clause 471, finding that the opinion expressed by him concerning C D, in the publication, which he admits to have made as described in the Indictment was expressed in good faith, and was warranted by the conduct of C D in the discharge of his public functions as Judge of the Zillah Court of ———.

SCHEDULE B. 1.

SCHEDULE B. 1.

The Punishments of the Penal Code, as specified in Clause 40, are—

1. Death.

2. Transportation.

3. Imprisonment.

   (1) Rigorous.

   (2) Simple.

4. Banishment from the Territories of the East India Company.

5. Forfeiture of Property.

6. Fine.

NOTE 1. In every case of a sentence of Death, Transportation, Imprisonment, or Banishment, a fine may be *added*, except where the forfeiture of all property is prescribed, as in Clause 109.

2. Previous abetment of an offence by instigation, conspiracy, or aid, if the offence is committed in consequence, is punishable with the punishment provided for the offence (Clauses 88, 95, and 97.) This rule applies although the doer may not be liable to punishment for that offence (Clause 99) or by reason of youth, &c. may not be himself liable to punishment at all (Clause 100.) When a different offence is committed which the abettor knew to be likely to be committed in the attempt to commit the offence intended, the abettor is liable to the punishment of the offence committed (Clause 98.)

DEATH.

Clause.	Offence.	Alternative Punishment.
109	Waging War against the Government, or previously abetting the same.	Transportation, or Imprisonment of either description for life. Forfeiture of all property is to be added whether the sentence be Death or Transportation or Imprisonment.
300	Murder.	Transportation or rigorous Imprisonment for life.
306	Previous abetment, by aid, of suicide committed by a child, or an insane or delirious person, or an idiot, or a person intoxicated.	Idem.
380	Murder, in Dacoity, committed by one of a Gang consisting of 6 or more persons, every one of the Gang being liable.	Transportation for life, or rigorous Imprisonment for life, or for a term not less than 7 years.

TRANSPORTATION FOR LIFE.

Clause.	Offence.	Alternative Punishment.
109	Waging War against the Government, or previously abetting the same.	Death, or Imprisonment of either description for life. Forfeiture of all property is to be added in every case.
117	Previous abetment of Mutiny by a Soldier or Sailor, in the service of the King or the East India Company, if Mutiny is committed in consequence.	Imprisonment of either description for life, or for a term not less than 3 years.
123	Previous abetment of desertion by a Soldier or Sailor to an enemy, if desertion is committed in consequence.	Imprisonment for a term which may extend to life.
191	Giving or fabricating false evidence to cause any person to be convicted of a capital offence.	Rigorous imprisonment for life or not less than 7 years.
203	Returning from Transportation for a term of years, before the expiration of the term the punishment not having been remitted.	
204	Returning from Transportation for a term of years and subsequent banishment, the punishment not having been remitted.	

Clause.	*Offence.*	*Alternative Punishment.*
207	A person having accepted any conditional remission of the punishment of transportation for life, violating the condition thereof.	This is a general provision applying to every case of a conditional remission of punishment, in a breach of the condition, rendering the offender liable to the punishment to which he was originally sentenced.
300	Murder.	Death or rigorous Imprisonment for life.
306	Previous abetment, by aid, of suicide by a child, or insane, or delirious person, or an idiot, or a person intoxicated.	Idem.
308	Doing any act, &c. with such intention, &c. that if death ensued it would be murder; and carrying it to a length contemplated as sufficient to cause death.	Rigorous Imprisonment for life, or for not less than 7 years.
311	Thuggee.	Imprisonment of either description for life.
320	Causing hurt in an attempt to commit murder.	Rigorous Imprisonment for life, or for not less than 7 years.
322	Causing grievous hurt for the purpose of extortion.	Idem.
343	Assault in attempt to commit murder.	Idem.
356	Kidnapping, intending, or knowing it likely that murder may be committed on the person kidnapped.	Idem.
379	Dacoity.	Rigorous Imprisonment for life, or for not less than 3 years.
380	Murder, in Dacoity, by one of a Gang of 6 or more persons, every one of the Gang being liable.	Death, or rigorous Imprisonment for life, or for not less than 7 years.
391	Receiving stolen property knowing it was obtained by Dacoity.	Rigorous Imprisonment for life, or for not less than 3 years.
414	Mischief, by fire, intending or knowing it to be likely that human dwellings, to the number of 5, may be consumed.	Rigorous Imprisonment for life, or for not less than 7 years.
428	House trespass in order to any offence punishable with death, or transportation for life.	Rigorous Imprisonment for life, or for not less than 3 years.

TRANSPORTATION FOR A TERM WHICH MAY EXTEND TO 7 YEARS, WITH BANISHMENT FOR LIFE.

205	Returning from banishment, the term not having expired, and the punishment not having been remitted.
43	**NOTE.** In every case in which sentence of imprisonment for 7 years, or upwards, shall be passed upon an offender not being of both Asiatic birth and Asiatic blood, the Government at any time within 2 years after the sentence may commute the remaining imprisonment for transportation for a term not exceeding the unexpired term, to which may be added banishment for life or for any term.

IMPRISONMENT.

NOTE.—The letter R denotes that the imprisonment is *rigorous* and the letter S that it is *simple*. Where neither of these letters appears it is to be understood that the imprisonment may be of *either description*.

CLASS I.

IMPRISONMENT FOR LIFE.

Clause.	*Offence.*	*Alternative Punishment.*
109	Waging War against the Government, or previously abetting the same.	Death or Transportation for life. Forfeiture of all property is to be added.
300	Murder. R	Death or Transportation for life.
306	Previous abetment by aid, of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated. R	Idem.
311	Thuggee.	Transportation for life.

CLASS II.

IMPRISONMENT FOR LIFE OR FOR A TERM NOT LESS THAN 7 YEARS.

Clause.	*Offence.*	*Alternative Punishment.*
191	Giving or fabricating false evidence to cause any person to be convicted of a capital offence. R	Transportation for life.

Clause.	Offence.	Alternative Punishment.
308	Doing any act, &c., with such intention, &c., that if death ensued it would be murder and carrying it to a length contemplated as sufficient to cause death. R	Transportation for life.
320	Causing hurt in an attempt to commit murder. R	Idem.
322	Causing grievous hurt for the purpose of extortion. R	Idem.
343	Assault in attempt to commit Murder. R	Idem.
356	Kidnapping intending or knowing it likely that Murder may be committed on the person kidnapped. R	Idem.
362	Unnatural offence without consent of the other person.	
380	Murder in Dacoity by one of a Gang of 6 or more persons every one of the Gang being liable. R	Death or transportation for life.
414	Mischief by fire intending or knowing it to be likely that human dwellings, to the number of 5, may be consumed. R	Transportation for life.

CLASS III.

IMPRISONMENT FOR LIFE OR FOR A TERM NOT LESS THAN 3 YEARS.

Clause.	Offence.	Alternative Punishment.
117	Previous abetment of Mutiny by a Soldier or Sailor in the Service of the King or of the East India Company if Mutiny is committed in consequence.	Transportation for life.

Clause.	Offence.	Alternative Punishment.
379	Dacoity. R	Transportation for life.
391	Receiving stolen property knowing it was obtained by Dacoity. R	Idem.
428	House Trespass in order to any offence punishable with Death or Transportation for Life. R	Idem.

CLASS IV.

IMPRISONMENT WHICH MAY EXTEND TO LIFE.

Clause.	Offence.	Alternative Punishment.
123	Previous abetment of desertion by a Soldier or Sailor in the Service of the King or of the East India Company to an enemy, if desertion is committed in consequence.	Transportation for life.

CLASS V.

IMPRISONMENT WHICH MAY EXTEND TO 14 YEARS AND MUST NOT BE FOR LESS THAN 2 YEARS (NO ALTERNATIVE PUNISHMENT.)

Clause.	Offence.
110	Abetting by concealment the waging of war against the Government.
115	Using a place in the territories of the East India Company for the purpose of making preparations to commit depredations on the territories of a power at peace with Government.
302	Voluntary Culpable Homicide by consent.
307	Abetting Suicide.
357	Kidnapping intending or knowing that the consequence may be grievous hurt or rape, &c.

Clause.	Offence.
360	Rape.
361	Unnatural offences.
371	Extortion by putting in fear of death.
373	Extortion by putting in fear of being accused or defamed as a person under the influence of unnatural lust.
377	Robbery. R
415	Committing mischief on a decked vessel intending to destroy it, &c.
444	Forgery of a valuable Security.
447	Making any apparatus, &c. for engraving, or any Seal, intended to be used for the purpose of forgery.
448	Having in possession any plate, &c. for forgery.
449	Having in possession a *forged* document intended to be used as genuine to the injury of any party.
450	Having in possession any thing marked by forgery, which is *not* a document, intending that the same may be made a document purporting to be a valuable security, and intending that it may be used as genuine.
451	Fraudulently destroying or defacing, or secreting a will.
466	A man deceiving a woman into the belief that she is lawfully married to him.

CLASS VI.

IMPRISONMENT WHICH MAY EXTEND TO 14 YEARS AND MUST NOT BE FOR LESS THAN 1 YEAR (NO ALTERNATIVE PUNISHMENT.)

Clause.	Offence.
321	Hurt for the purpose of Extortion. R

Clause.	Offence.
324	Grievous hurt by any sharp instrument, or by fire or by any heated substance, or by any corrosive or explosive substance, or by any substance deleterious to the human body to inhale, swallow, &c.
413	Mischief by fire, intending or knowing that a building ordinarily used as a human dwelling, &c. may be consumed.

CLASS VII.

IMPRISONMENT WHICH MAY EXTEND TO 14 YEARS.

Clause.	Offence.	Alternative Punishment.
301	Manslaughter.	Fine.
303	Voluntary culpable homicide in defence.	Fine.

CLASS VIII.

IMPRISONMENT WHICH MAY EXTEND TO 10 YEARS AND MUST NOT BE FOR LESS THAN 6 MONTHS (NO ALTERNATIVE PUNISHMENT.)

Clause.	Offence.
319	Causing of grievous hurt.

NOTE.—By Clause 192, a person giving or fabricating false evidence with intent to cause any one to be convicted of an offence punishable with imprisonment for more than 7 years is liable to the punishment of that offence.

CLASS IX.

IMPRISONMENT WHICH MAY EXTEND TO 7 YEARS AND MUST NOT BE FOR LESS THAN 2 YEARS (NO ALTERNATIVE PUNISHMENT.)

Clause.	Offence.
233	Counterfeiting the *King's* or *Company's* Coin.

Clause.	Offence.
235	Making a die for counterfeiting the King's or Company's Coin.
237	Previously abetting the Counterfeiting of the King's or Company's Coin.
239	Importing Counterfeit King's or Company's Coin.
241	Any person delivering to another, or attempting to induce another to receive Counterfeit King's or Company's Coin, which when it came into his possession he knew to be Counterfeit, with the intention that the Coin shall pass as genuine.
244	Any person having Counterfeit King's or Company's Coin in possession, which when it came into his possession he knew to be such, intending that it shall pass as genuine.
245	Any person employed in a Mint causing any Coin issued from it to be of illegal weight or composition.

CLASS X.

IMPRISONMENT WHICH MAY EXTEND TO 7 YEARS AND MUST NOT BE FOR LESS THAN 1 YEAR (NO ALTERNATIVE PUNISHMENT).

Clause.	Offence.
111	Assaulting, &c. the Governor General, or any Governor or Member of Council to induce or compel him to exercise or refrain from exercising any of his lawful powers.
116	Abetment of Mutiny by a Soldier or Sailor in the Service of the King or of the East India Company.
119	Previous abetment of an assault by such a Soldier or Sailor on his superior Officer, if an assault is committed.
122	Previous abetment of desertion by such a Soldier or Sailor to an enemy.
190	Giving or fabricating false Evidence.
217	Counterfeiting a Government Stamp from which a revenue is derived.
218	Having in possession any implement or material for Counterfeiting a Government Stamp from which a revenue is derived.

Clause.	Offence.
219	Making any implement for Counterfeiting a Government Stamp from which a revenue is derived.
220	Selling a Counterfeit Government Stamp.
221	Having in possession a Counterfeit Government Stamp intending to sell it.
275	Destroying, &c. a place of worship with the intention of insulting the religion of any class of persons.
355	Kidnapping.
367	Theft with preparation to cause death, &c. R
372	Putting in fear of death, &c. in order to extortion.
374	Putting in fear of a false accusation of unnatural lust.
378	Attempt to commit robbery. R
381	Being one of a Gang of six or more persons assembled for Dacoity. R
398	Fraudulent Insolvency.
445	Forgery for the purpose of cheating.

CLASS XI.

IMPRISONMENT WHICH MAY EXTEND TO 7 YEARS AND MUST NOT BE FOR LESS THAN 6 MONTHS (NO ALTERNATIVE PUNISHMENT.

Clause.	Offence.
412	Mischief by fire in order to destruction of property of the value of 100 Rupees or more, not kept within any building.
438	Lurking house trespass or house breaking by night with preparation for causing hurt, &c.

CLASS XII.

IMPRISONMENT WHICH MAY EXTEND TO 5 YEARS.

Clause.	*Offence.*	*Alternative Punishment.*
133	When murder is committed in a riot by any of the rioters every other person engaged in the riot shall be punished under this Clause.	Fine.

CLASS XIII.

IMPRISONMENT WHICH MAY EXTEND TO 3 YEARS AND MUST NOT BE FOR LESS THAN 1 YEAR (NO ALTERNATIVE PUNISHMENT.)

Clause.	*Offence.*
247	Diminishing the weight or altering the composition of King's or Company's Coin with intention to pass the same as unaltered.
250	A person delivering to another, &c. any Coin, &c., diminished or altered, having known it to be so when he became possessed of it, intending that it shall pass as unaltered.
252	Being in possession of Coin so diminished or altered, having known it to be so when it was received into possession, intending to cause the same to be in circulation.

CLASS XIV.

IMPRISONMENT WHICH MAY EXTEND TO 3 YEARS AND MUST NOT BE FOR LESS THAN 6 MONTHS (NO ALTERNATIVE PUNISHMENT.)

Clause.	*Offence.*
118	Previous abetment of assault upon a superior Officer by a Soldier or Sailor of the King or the East India Company.
162	Making a false statement on oath to a public Servant.

Clause.	*Offence.*
232	Counterfeiting Coin.
234	Making a Die for the purpose of Counterfeiting Coin.
236	Having in possession any implement or material for Counterfeiting Coin or making Dies for that purpose.
238	Importing or Exporting Counterfeit Coin to be passed as genuine.
240	Delivering, &c. Counterfeit Coin to any person in order to its being passed as genuine which when it came into his possession the person delivering it knew to be Counterfeit.
243	Having possession of Counterfeit Coin, known to be such when it was received into possession, intending that it shall be passed as genuine.
276	Disturbing an assembly engaged in religious worship with assault upon any person engaged in such worship.
346	Assault in attempt to commit rape.
365	Theft in a building, &c. used as a dwelling, &c., or in a building used for the custody of property in pursuance of a conspiracy in which a person within and a person without are engaged.
366	Theft on a letter, &c. in possession of an Officer of the Post Office.
385	Misappropriation of property not in possession knowing that it was in the possession of a deceased person at the time of his decease.
388	Misappropriation of a letter, &c. by an Officer of the Post Office.
416	Mischief, with preparation to cause death or hurt, &c. in committing it, &c.
446	Forgery with intent to injure the reputation of any person, &c.
452	Fraudulently destroying or defacing a valuable security.
457	Counterfeiting a property mark affixed by a public Servant in order to injure some person.
468	Fraudulently going through the ceremony of marriage knowing that the marriage is not lawful.
484	Criminal intimidation with concealment of the quarter whence it comes.

R

CLASS XV.

IMPRISONMENT WHICH MAY EXTEND TO 3 YEARS AND MUST NOT BE FOR LESS THAN 3 MONTHS (NO ALTERNATIVE PUNISHMENT.)

Clause.	*Offence.*
434	Lurking house trespass or house breaking with preparation to cause hurt, &c.

CLASS XVI.

IMPRISONMENT WHICH MAY EXTEND TO 3 YEARS.

Clause.	*Offence.*	*Alternative Punishment.*
94	Instigating the public to the commission of any offence.	Fine.
113	Attempting to excite disaffection to the Government by words, &c. S	Banishment—Fine.
114	Waging war against an allied Asiatic power, attempting, or previously abetting the same.	Idem.
121	Previous abetment of desertion (if committed) by a Soldier or Sailor of the King or of the East India Company.	Fine.
138	A public servant accepting a reward for doing or forbearing to do any official act, favoring or disfavoring any party, &c.	Fine.
140	A public servant abetting any person in accepting any gratification for the exercise of real or pretended influence over himself. S.	Fine.
146	A public servant charged with the preparation of any document knowingly framing it incorrectly to injure any party.	Fine.
309	Attempting to commit voluntary culpable homicide.	Fine.
312	Causing miscarriage.	Fine.

Clause.	*Offence.*	*Alternative Punishment.*
323	Causing hurt by any sharp instrument, or by fire or any heated substance, or by any corrosive or explosive substance, or any substance deleterious to the human body to inhale, swallow, &c. &c.	Fine.
364	Theft.	Fine.
369	Extortion.	Fine.
387	Criminal Breach of Trust.	Fine.
390	Receiving stolen property.	Fine.
406	Mischief by killing or wounding or poisoning any animal to the value of 10 Rupees.	Fine.
407	Mischief on any channel or reservoir of water.	Fine.
408	Mischief on any road, bridge, &c.	Fine.
409	Mischief intended to cause inundation and loss to amount of 100 Rupees.	Fine.
410	Mischief on any light house, sea mark, &c.	Fine.
435	Lurking house trespass or house breaking by night.	Fine.
440	Criminal trespass by fraudulently opening a closed receptacle entrusted to the offender, by any means by which it is damaged, or by opening any lock.	Fine.

R

CLASS XVII.

IMPRISONMENT WHICH MAY EXTEND TO 2 YEARS.

Clause.	*Offence.*	*Alternative Punishment.*
130	Rioting after proclamation to disperse.	Fine.
132	Rioting being armed.	Fine.

Clause.	*Offence.*	*Alternative Punishment.*
141	A Judge accepting a gift from a Plaintiff or Defendant in a proceeding before him. S	Fine.
142	A Judge pronouncing a decision which he knows to be unjust. S	Fine.
144	Any Officer competent to commit persons to confinement, committing a person unjustly. S	Fine.
195	Making a false statement in a declaration which a Court of Justice is bound to receive as evidence.	Fine.
199	Intimidation to restrain a person from instituting a suit, &c.	Fine.
201	Escape of a person under sentence from custody.	Fine.
291	Possessing a Press for printing books or papers, not having made and subscribed the declaration required by law. S	Fine which may extend to five thousand Rupees.
292	Printing or publishing any book or paper without notice of the name of the Printer and the Publisher, and the place of printing and publication. S	Idem.
293	Printing or publishing any periodical work otherwise than in conformity to the law. S	Idem.
304	Causing death by any act or illegal omission so rash or negligent as to indicate a want of regard for human life.	Fine.
334	Wrongful confinement for 3 days or more.	Fine.
347	Assault on a woman, intending to outrage her modesty.	Fine.
348	Assault on any person intending to dishonor that person.	Fine.
349	Assault in an attempt to steal from the person.	Fine.

Clause.	*Offence.*	*Alternative Punishment.*
384	Criminal misappropriation of property not in possession.	Fine.
395	Cheating with intent to wrong a party whose interest the offender was bound to protect.	Fine.
396	Cheating by personation.	Fine.
403	Mischief causing loss to the amount of 100 Rupees or upwards.	Fine.
404	Mischief to enhance the value of an article, or to affect the event of any competition so as to caûse gain to any person.	Fine.
405	Mischief with intent to insult or annoy.	Fine.
430	House trespass with preparation to cause hurt, &c.	Fine.
431	Lurking house trespass or house breaking.	Fine.
439	Criminal trespass by opening any closed receptacle of property by means by which it is damaged, or by opening any lock.	Fine.
443	Forgery.	Fine.
453	A public servant of the Post Office entrusted with a letter, &c. containing a document, opening the same without authority.	Fine.
458	Making a counterfeit property mark for the purpose of cheating.	Fine.
479	Defamation. S	Fine.
480	Being the possessor of machinery by which defamatory matter was printed, &c. S	Fine.
481	Being the first seller of any thing printed or engraved by which defamation is committed. S	Fine.
483	Criminal intimidation.	Fine.
486	Insulting the modesty of a woman by words or otherwise.	Fine.

CLASS XVIII.

IMPRISONMENT WHICH MAY EXTEND TO 1 YEAR AND MUST NOT BE FOR LESS THAN 3 MONTHS (NO ALTERNATIVE PUNISHMENT.)

Clause.	*Offence.*
246	Diminishing the weight or altering the composition of coin.
248	Possessing any implement or material to be employed for committing any of the offences in Clauses 245 to 247.
249	Delivering to any person any Coin dealt with according to Clause 246 having known at the line it came into possession that it had been so dealt with, intending that it may be passed as genuine.
251	Being in possession of Coin dealt with according to Clause 246 having known at the time it came into possession that it had been so dealt with intending to cause the same to be in circulation.

CLASS XIX.

IMPRISONMENT WHICH MAY EXTEND TO 1 YEAR.

Clause.	*Offence.*	*Alternative Punishment.*
108	Subsequent abetment by assisting any person to retain or dispose of property acquired by any fraudulent offence.	Fine.
120	Previous abetment of desertion by a Soldier or Sailor of the King or of the East India Company.	Fine.
136	Giving provocation intended or likely to cause a riot, if rioting be committed.	Fine.
143	A Judge from partiality disobeying any direction of the law of procedure. S.	Fine.
145	A public servant disobeying any direction of the law in order to cause injury to any party, &c. S.	Fine.

Clause.	*Offence.*	*Alternative Punishment.*
184	Intimidation to a public servant to induce him to do or restrain him from doing any official act.	Fine.
186	Intimidation to any person to restrain him from a legal application for protection to a public servant.	Fine.
193	Removing, &c. property to prevent it being taken in execution of a sentence or decree.	Fine.
194	Wrongfully claiming property, &c. for the same purpose.	Fine.
196	Fraudulently, &c. instituting a suit knowing that there is no just ground for it.	Fine.
253	Fraudulently using a false balance.	Fine.
254	Fraudulently using a false weight or measure.	Fine.
255	Possessing a false balance weight or measure, intending to use it fraudulently.	Fine.
256	Making any false balance, &c. to be fraudulently used.	Fine.
278	Disturbing an assembly for religious worship, &c.	Fine.
280	Trespassing on a place of Sepulture, &c. with the intention of wounding the feelings or insulting the religion of any person.	Fine.
282	Uttering words, &c. intended to wound the religious feelings of any person.	Fine.
283	Doing any act with the intention of causing it to be believed that some person is thereby rendered an object of divine displeasure, &c.	Fine which may extend to one thousand Rupees.
290	Repetition of the offence of residing in the Company's Territories without a license when a license is necessary by law. S	
318	Hurt.	Fine which may extend to one thousand Rupees.

Clause.	Offence.	Alternative Punishment.
326	Grievous hurt on grave and sudden provocation.	Fine which may extend to two thousand Rupees.
333	Wrongful confinement.	Fine which may extend to one thousand Rupees.
338	Omitting to furnish a person kept in wrongful confinement with any thing necessary to prevent his being in danger of death or hurt.	Fine.
350	Assault on any person in an attempt wrongfully to confine him.	Fine which may extend to one thousand Rupees.
370	Putting in fear in order to extortion.	Fine.
394	Cheating.	Fine.
397	Attempting to cheat by personation.	Fine.
411	Mischief on a landmark.	Fine.
426	House trespass.	Fine which may extend to one thousand Rupees.
456	Making a counterfeit property mark, &c.	Fine.
459	Putting a property mark on any property to be used for the purpose of cheating, &c.	Fine.
460	Taking property from any person in order to satisfy a debt under such circumstances that if the intention were fraudulent the offence would be theft or robbery.	Fine.
467	A woman by deceit causing a man to believe that he is lawfully married to her.	Fine.

S

CLASS XX.

IMPRISONMENT WHICH MAY EXTEND TO 6 MONTHS.

Clause.	Offence.	Alternative Punishment.
105	Subsequently abetting any offence by intentionally omitting to give information of it as directed by law.	Fine.

Clause.	*Offence.*	*Alternative Punishment.*
107	Subsequently abetting any offence punishable with imprisonment for 7 years by harbouring the offender.	Fine which may extend to one thousand Rupees.
125	Previously abetting a breach of discipline by a Soldier or Sailor of the King or of the East India Company, if such breach of discipline be committed in consequence.	Fine.
129	Rioting.	Fine.
139	Accepting a reward for inducing a public servant to do or forbear to do any official act, &c.	Fine.
158	A person legally bound to furnish information to any public servant knowingly furnishing false information.	Fine which may extend to one thousand Rupees.
159	Refusing to take an oath when lawfully required to do so.	Fine.
160	Being on oath and refusing to answer questions lawfully demanded.	Fine.
163	Giving false information to a public servant to induce him to use his lawful power to the loss or annoyance of any person.	Fine which may extend to one thousand Rupees.
166	Resisting the lawful taking of any property by a public servant.	Fine.
171	Resisting the lawful taking into custody of himself or any other.	Fine.
173	Rescuing any person from lawful custody.	Fine.
197	Insulting, &c. any public servant, &c. sitting as a Court of Justice.	Fine which may extend to one thousand Rupees.
206	Harbouring, &c., one who has escaped from custody in which he was detained under sentence of a Court, or who has returned from transportation or banishment, &c.	Idem.
222	Knowingly using as genuine any counterfeit Government Stamp.	Fine.
257	Malignantly or wantonly doing any act likely to spread the infection of any disease dangerous to life.	Fine.

S

Clause.	*Offence.*	*Alternative Punishment.*
258	Knowingly disobeying quarantine rules.	Fine.
259	Adulterating food or drink intended for sale.	Fine which may extend to five hundred Rupees.
260	Selling or offering for sale noxious food as wholesome.	Idem.
261	Adulterating any drug, &c. with a view to its being sold or issued from any dispensary as unadulterated.	Fine which may extend to one thousand Rupees.
262	Selling or offering for sale knowingly any adulterated drug, &c. as unadulterated.	Idem.
263	Selling or offering for sale knowingly any drug, &c. as a different drug, &c.	Idem.
265	Driving or riding in a public way so rashly, &c. as to indicate a want of regard for human life.	Fine which may extend to two thousand Rupees.
266	Navigating any vessel so rashly, &c. as to indicate a want of regard for human life.	Idem.
267	Conveying for hire any person in a vessel in such a state or so loaded as to endanger the life of that person.	Idem.
268	Dealing with any poisonous substance so rashly as to indicate a want of regard for human life.	Idem.
269	Dealing with fire, &c. so rashly as to indicate a want of regard for human life.	Idem.
270	Dealing with any explosive substance so rashly as to indicate a want of regard for human life.	Idem.
271	Dealing with any machinery so rashly as to indicate a want of regard for human life.	Idem.
272	Omitting to take precaution to guard against danger to human life from the fall of any building which the offender has a right to pull down or repair.	Idem.
273	Omitting to take precaution against danger to human life or of grievous hurt from any animal in the possession of the offender.	Idem.

Clause.	Offence.	Alternative Punishment.
284	Committing an assault which causes the person assaulted to lose caste, &c.	Fine which may extend to two thousand Rupees.
327	Causing grievous hurt to any person by an act, &c., so rash or negligent as to indicate a want of regard for the safety of others.	Fine which may extend to one thousand Rupees.
401	Committing mischief, having taken precautions not to be detected.	Fine.
402	Mischief causing wrongful loss to the amount of 5 Rupees or upwards.	Fine.
454	Any person opening a fastened letter, &c. containing any document knowing it does not belong to him, &c.	Fine which may extend to five hundred Rupees.
465	A person bound by contract to attend on and supply the wants of one who is helpless, omitting so to do.	Idem.

CLASS XXI.

IMPRISONMENT WHICH MAY EXTEND TO 3 MONTHS.

Clause.	Offence.	Alternative Punishment.
124	Subsequently abetting desertion of any Soldier or Sailor of the King or of the East India Company by harbouring him.	Fine which may extend to five hundred Rupees.
126	Assuming the garb, &c., of a Soldier of the King or East India Company in order to pass as such.	Idem.
147	A public servant bound not to engage in trade engaging in trade. S	Fine.
148	A public servant bound not to purchase certain property purchasing that property. S	Fine.
150	Assuming that garb, &c., used by any class of public servants, in order to pass as such public servant.	Fine which may extend to five hundred Rupees.
161	A person refusing to sign any statement made by him when lawfully required to do so by a public servant.	Fine which may extend to five hundred Rupees.

Clause.	*Offence.*	*Alternative Punishment.*
164	Resisting any search or examination, &c., by a public servant lawfully empowered to make such search &c.	Fine which may extend to five hundred Rupees.
175	Escaping or attempting to escape from lawful custody.	Fine.
179	Insulting or interrupting a public servant in the discharge of his duty.	Fine which may extend to five hundred Rupees.
209	Smuggling.	Fine which may extend to an amount equal to five hundred Rupees added to five times the market value of the property smuggled.
210	Fraudulently receiving smuggled goods.	Idem.
212	Cultivating, &c., any prohibited article.	Fine which may extend to five hundred Rupees.
213	Possessing any implement, &c., in order to doing what is an offence in Clause 212.	Idem.
214	Selling or offering for sale any prohibited article.	Idem.
223	Effacing from any substance bearing a stamp any writing thereon in order that such stamp may be used for a different writing.	Fine which may extend to an amount equal to five hundred Rupees added to five times the price of such stamp.
224	Using for any writing as a stamp which has not been used before, a stamp known to have been before used.	Idem.
225	Establishing an illegal post.	Fine which may extend to one thousand Rupees.
288	A subject of the King, not a native of the Company's territories, entering the Company's territories by land, not being legally authorized to do so.	Fine which may extend to two thousand Rupees.
289	A subject of the King, not a native of the Company's territories residing in the said territories without the license required by law.	Idem.
342	Assault.	Fine which may extend to five hundred Rupees.
464	A Seaman illegally leaving his vessel.	Fine which may extend to one hundred Rupees.

Clause.	Offence.	Alternative Punishment.
485	Uttering any word, &c., intending thereby to insult.	Fine which may extend to one thousand Rupees.

CLASS XXII.

IMPRISONMENT WHICH MAY EXTEND TO 2 MONTHS.

Clause.	Offence.	Alternative Punishment.
178	Harbouring a person escaped from lawful custody.	Fine which may extend to five hundred Rupees.

CLASS XXIII.

IMPRISONMENT WHICH MAY EXTEND TO 1 MONTH.

Clause.	Offence.	Alternative Punishment.
135	Joining or continuing in an assembly which has been commanded to disperse.	Fine.
152	Absconding in order to avoid being served with a process.	Fine which may extend to five hundred Rupees.
153	Preventing the service of Process.	Idem.
155	Omitting to attend at any place when required to do so by a lawful order.	Idem.
156	Omitting to produce or deliver up any document when lawfully required to do so.	Idem.
157	Omitting to give any notice or information in the manner and at the time required by law.	Idem.
168	Obstructing any sale of property ordered by lawful authority.	Idem.
170	Bidding at a public sale for any property on account of a person legally incapable of purchasing such property not intending to perform the obligations incurred by such bidding.	Fine.

Clause.	Offence.	Alternative Punishment.
177	Harbouring a person with the intention of preventing him from being taken into lawful custody.	Fine which may extend to two hundred Rupees.
181	Intentionally omitting to give to a public servant such assistance as is required by law.	Idem.
182	Disobeying any lawful local order of a public servant if such disobedience causes danger to human life, health, &c.	Idem.
264	Causing the atmosphere in any public way to be in a state noxious or offensive.	Fine which may extend to five hundred Rupees.
286	Repetition of the offence of causing food to be in a state unfit for use according to the rules of caste, after a previous conviction.	Fine which may extend to two hundred Rupees.
325	Causing hurt on grave and sudden provocation.	Fine which may extend to five hundred Rupees.
332	Wrongful restraint.	Idem.
351	Assault on grave and sudden provocation.	Fine which may extend to two hundred Rupees.
352	Making show of assault except on grave and sudden provocation.	Idem.
358	Being in charge of any vessel and suffering a person to embark therein for any place not within the territories of the East India Company without an order or permit required by law.	Fine which may extend to two hundred Rupees for every person so suffered to embark.
425	Criminal Trespass.	Fine which may extend to five hundred Rupees.
463	Breach of a contract to convey a person or property from one place to another.	Fine which may extend to one hundred Rupees.
487	Uttering any word, &c. intending thereby to annoy any person.	Idem.

CLASS XXIV.

IMPRISONMENT WHICH MAY EXTEND TO 24 HOURS.

Clause.	Offence.	Alternative Punishment.
488	A person being in a state of intoxication and causing annoyance in a public place. S	Fine which may extend to ten Rupees.

BANISHMENT FOR LIFE OR FOR ANY TERM.

Clause.	Offence.	Alternative Punishment.
113	Attempting to excite feelings of disaffection to the Government.	Imprisonment (S) which may extend to 3 years—fine.
114	Waging war against the Government of any Asiatic Ally.	Imprisonment which may extend to 3 years—fine.
290	Repetition, after conviction, of the offence of entering and residing in a certain part of the territories of the East India Company without the license required by law.	Imprisonment (S) which may extend to one year.

FORFEITURE.

CLASS I. OF ALL PROPERTY.

Clause.	Offence.	Remark.
109	Waging war against the Government, or previously abetting the same.	In addition to death or transportation for life, or imprisonment for life.

CLASS II. OF SPECIFIC PROPERTY.

Clause.	Offence.	Remark.
115	Using a place in the territories of the East India Company for the purpose of making preparations to commit depredations on the territories of a power at peace with the Government.	At discretion of the Court in addition to imprisonment which may extend to 14 years and must not be less than 2 years.

FINES.

In every case of a sentence of Death, Transportation, Imprisonment or Banishment, a fine may be *added*, except where the forfeiture of all property is prescribed as in Clause 109.

In many cases as above a fine may be inflicted in the *alternative* for other punishment.

The following are the offences for which fine is prescribed positively as the sole punishment.

Clause.	*Offence.*	*Amount of Fine.*
149	A public servant knowingly disobeying any lawful order of a superior or insulting him or neglecting his duty.	Not to exceed salary for 3 months, or thrice the amount of fees for 1 month, or ¼ of clear annual value of land, if paid in land
211	Placing a vessel in a situation in which a Revenue Officer has forbidden it to be placed.	To one thousand Rupees.
215	Having any article in possession in contravention of any law.	To twice the value.
216	Omitting to put a mark on any article as required by law.	To the value.
226	Being in charge of any letter, &c. on board of any vessel and intentionally omitting to deliver it to the Post Office at the time and in the manner directed by law.	Unlimited.
227	Being in charge of any vessel and refusing to receive on board any letter, &c. upon the legal requisition of any public servant.	To five hundred Rupees.
228	A person authorized by license to cultivate, collect, manufacture, &c. any article acting in contravention of the conditions imposed upon him.	To two hundred Rupees.
242	Attempting to pass a counterfeit coin as genuine.	To ten times the value of the coin counterfeited.
274	Causing danger, annoyance, or obstruction in any public way or line of navigation, &c.	To two hundred Rupees.
285	Causing the food of any person to be in a state in which according to the rules of his caste he cannot use it.	To fifty Rupees.
287	A subject of the King, not a native of the territories of the East India Company, omitting to report himself on his arrival by sea within the said territories.	To one thousand Rupees.

Clause.	*Offence.*	*Amount of Fine.*
400	Mischief.	To ten times the amount of damage.

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SCHEDULE B 2.

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CHAPTER IV.—OF ABETMENT.

Clause.	*Offence.*	*Penalty.*
88	Previous abetment of any offence by instigation, if the offence is committed in consequence.	The punishment of the offence.
89	If the offender under the last Clause also commits any offence under any other Clause.	Cumulative, that is to say, a combination of the punishments provided for the two offences respectively.
90	Previous abetment of any offence punishable with imprisonment, by instigation with actual delivery of a bribe.	Imprisonment to ¼ of the longest term for that offence, or fine as for that offence, or both.
91	Previous abetment of any offence punishable with imprisonment, by instigation, with threat of injury.	Idem.
92	If any other offence committed at the same time.	Cumulative.
93	Previous abetment by a person present, instigating another to persist in the commission of an offence punishable with rigorous imprisonment for one year and upwards.	Either imprisonment, i. e. rigorous or simple, to ¼ of the longest term for that offence, or fine, or both.
94	Previous abetment by instigating the public, or more than 10 persons, to the commission of any offence.	Either imprisonment to 3 years, or fine, or both.
95	Previous abetment of an offence by conspiracy, if the offence is committed in consequence.	See Clause 88.
96	Previous abetment by conspiracy of any offence punishable with imprisonment, if any act or omission takes place in consequence in order to the offence.	See Clause 90.

Clause.	Offence.	Penalty.
97	Previous abetment by any act or omission intended to aid the commission of an offence, if the offence is committed.	See Clause 88.
98	When in an attempt to commit an offence, or in the commission, or in consequence of the commission of an offence, a different offence is committed, if the latter offence was likely to be committed in such attempt.	The previous abettor of the first offence liable to the punishment of the last mentioned offence.
	If both offences be committed, and the offender be liable to cumulative punishment.	The abettor also liable to cumulative punishment.
99	When in consequence of previous abetment an offence is committed, which would be a different offence; but for some misconception of the doer from which the abettor is free, or, but for some intention, &c. of the doer unknown to the abettor.	The abettor liable to the same punishment as if no such misconception, &c. existed.
100	When any thing is done in consequence of previous abetment which would be a certain offence; but for the youth, &c. of the doer, or for some misconception on his part from which the abettor is free.	See Clause 88.
101	A public servant concealing a design to commit any offence which it is his duty to prevent, if that offence is committed.	Either imprisonment to ½ of the longest term of imprisonment for that offence, or fine, or both.
102	Concealing a design to commit any offence punishable with rigorous imprisonment for one year or upwards, if the offence is committed.	See Clause 93.
105	Subsequent abetment by intentionally omitting to give information of an offence committed, as required by law.	Either imprisonment to 6 months, or fine, or both.
106	Subsequent abetment of any offence punishable with rigorous imprisonment for one year or upwards, by causing marks of the commission of that offence to disappear.	Either imprisonment to 1½ of the longest term for that offence, or fine, or both.

Clause.	Offence.	Penalty.
107	Subsequent abetment of an offence punishable with imprisonment for 7 years or upwards by harbouring the offender, to screen him from punishment. *Exception.*—Not to extend to harbour given by relations specified.	Either imprisonment to 6 months, or fine to Rupees 1,000, or both.
108	Subsequent abetment by assisting the offender to retain or dispose of property fraudulently acquired.	Either imprisonment to one year, or fine, or both.

CHAPTER V.—OFFENCES AGAINST THE STATE.

Clause.	Offence.	Penalty.
109	Waging war or abetting the waging of war against the Government.	Death,—or Transportation for life. or either imprisonment for life, and forfeiture of all property.
110	Previous abetment of the last offence by concealing a design to commit it.	Either imprisonment maximum 14 years, minimum 2 years, also liable to fine.
111	Assaulting, &c. the Governor General of India, or the Governor, or Deputy Governor, or a Member of Council of any Presidency, to compel or restrain the exercise of his lawful powers, or attempting such offence.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
112	If any other offence is committed at the same time.	Cumulative.
113	Attempting to excite disaffection to the Government.	Banishment for life, or for any term from the Company's Territories, to which fine may be added, or simple imprisonment to 3 years, to which fine may be added; or fine simply.
114	Waging war, &c. against any Asiatic power in alliance with the Government.	Banishment, or either imprisonment to 3 years, to which fine may be added, or fine simply.

Clause.	Offence.	Penalty.
115	Making preparation within the Company's Territories to commit, or to take refuge after committing depredations on the territories of any power at peace with the Government.	Either imprisonment maximum 14 years, minimum 2 years, also liable to fine and forfeiture of specific property.

CHAPTER VI.—OFFENCES RELATING TO THE ARMY AND NAVY.

Clause.	Offence.	Penalty.
116	Previously abetting the commission of Mutiny by a Soldier or Sailor of the King or of the East India Company.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
117	Previous abetment of Mutiny by such a Soldier or Sailor, when Mutiny is committed in consequence.	Transportation for life; either imprisonment for life, or a term not less than 3 years, also liable to fine.
118	Previous abetment of an assault by such a Soldier or Sailor on his Superior Officer.	Either imprisonment maximum 3 years, minimum 6 months, also liable to fine.
119	Previous abetment of an assault by such a Soldier or Sailor on his Superior Officer, if the assault is committed.	See Clause 116.
120	Previous abetment of the desertion of such a Soldier or Sailor.	Either imprisonment to 1 year, or fine, or both.
121	Previous abetment of the desertion of such a Soldier or Sailor, if desertion is committed in consequence.	Either imprisonment to 3 years, or fine, or both.
122	Previous abetment of the desertion of such a Soldier or Sailor to an Enemy.	See Clause 116.
123	Previous abetment of the desertion of such a Soldier or Sailor to an Enemy, if such desertion is committed in consequence.	Transportation for life; imprisonment which may extend to life; also liable to fine.

Clause.	Offence.	Penalty.
124	Subsequent abetment by harbouring such a Soldier or Sailor who has deserted. *Exception.* Not extended to harbouring by relations specified.	Either imprionment to 3 months, or fine to Rupees 500, or both.
125	Previous abetment of a breach of Military or Naval discipline by such a Soldier or Sailor committed in consequence.	Either imprisonment to 6 months, or fine, or both.
126	Any person wearing any garb or carrying any token used by a Soldier in the service of the King or of the East India Company, with the intention that it may be believed that he is such a Soldier.	See Clause 124.

CHAPTER VII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

Clause.	Offence.	Penalty.
129	Rioting—joining or continuing in a riotous assembly.	Either imprisonment to 6 months, or both.
130	Rioting by joining or continuing in a riotous assembly, knowing that such assembly has been commanded to disperse.	Either imprisonment to 2 years, or fine, or both.
131	If in committing the offence under the last Clause the offender also commits an offence under either of the two next following Clauses.	Cumulative.
132	Rioting, being armed with any weapon.	See Clause 130.
133	If murder be committed in a riot by one of the rioters, every other rioter shall be punished under this Clause.	Either imprisonment to 5 years, or fine, or both.
134	If any other offence is committed at the same time.	Cumulative.

Clause.	*Offence.*	*Penalty.*
135	Intentionally joining or continuing in *any* assembly of 12 or more persons knowing that it has been commanded to disperse.	Simple imprisonment to one month, or fine, or both.
136	Malignantly and wantonly giving provocation, intending to cause rioting, if rioting be committed.	Either imprisonment to 1 year, or fine, or both.
137	If any other offence is committed at the sametime.	Cumulative.

CHAPTER VIII.—OF THE ABUSE OF THE POWERS OF PUBLIC SERVANTS.

Clause.	*Offence.*	*Penalty.*
138	Being or expecting to be a public servant, and accepting for himself or for another, any gratification as a motive for doing or forbearing to do any official act, favoring or disfavoring any party, &c.	Either imprisonment to 3 years, or fine, or both.
139	Accepting any gratification as a motive for inducing by personal influence any public servant to do or forbear to do any official act, &c. &c.	Simple imprisonment to 6 months, or fine, or both.
140	A public servant abeting, previously or subsequently, the offence in the last Clause with reference to himself.	Simple imprisonment to 3 years, or fine, or both.
141	A Judge accepting a gift from a plaintiff or defendant in any proceeding in his Court.	Simple imprisonment to 2 years, or fine, or both.
142	A Judge pronouncing a decision which he knows to be unjust.	Idem.
143	A Judge for any purpose of favor or disfavor to any party disobeying the Law of Procedure.	Simple imprisonment to one year, or fine, or both.

Clause.	Offence.	Penalty.
144	Any Officer authorized to commit to confinement, knowingly committing any person unjustly.	See Clause 141.
145	A public servant disobeying the law for his guidance, intending to cause injury to any person or to save any person from punishment.	See Clause 143.
146	A public servant charged with the preparation of any document, framing it incorrectly, intending to cause injury to any person, &c.	See Clause 138.
147	A public servant bound not to engage in trade, engaging in trade.	Simple imprisonment to 3 months, or fine, or both.
148	A public servant bound not to purchase or bid for certain property purchasing or bidding for the same.	See Clause 147.
149	A public servant knowingly disobeying a lawful order of his official superior, or insulting him, or neglecting his duty.	Fine to 3 months' Salary; or to thrice the amount of legal fees received by him in one month, or if paid in land, to $\frac{1}{4}$th of the annual value of such land.
150	Wearing the garb, &c., of a public servant in order to pass off as such.	Either imprisonment to 3 months, or fine to Rupees 500, or both.
151	In committing an offence under this Chapter, committing also any other offence.	Cumulative.

CHAPTER IX.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

Clause.	Offence.	Penalty.
152	Absconding to avoid being served with a summons or notice.	Either imprisonment to 1 month, or fine to Rupees 500, or both.
153	Preventing the service or the affixing of any summons, or notices, or the removal of it when it has been affixed; or preventing a proclamation.	Idem.

Clause.	Offence.	Penalty.
154	If any other offence is committed at the same time.	Cumulative.
155	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	See Clause 152.
156	Intentionally omitting to produce or deliver up any document, being legally bound to produce or deliver up the same.	Idem.
157	Intentionally omitting to give any notice, or furnish information on any subject as required by law.	Idem.
158	Knowingly furnishing false information to a public servant.	Either imprisonment to 6 months, or fine to Rupees 1,000, or both.
159	Refusing to take an oath, &c. to state the truth.	Either imprisonment to 6 months, or fine, or both.
160	Being on oath to state the truth, refusing to answer questions.	Idem.
161	Refusing to sign a statement made to a public servant when legally required to do so.	Either imprisonment to 3 months, or fine to Rupees 1,000, or both.
162	Knowingly stating to a public servant on oath as true that which is false.	Either imprisonment maximum 3 years, minimum 6 months, also liable to fine.
163	Giving false information to a public servant in order to cause him to use his lawful power to the loss or annoyance of any person.	See Clause 158.
164	Preventing, or attempting to prevent any public servant, empowered to enter or remain in any place, or make any search, or examine anything, or put any mark upon any thing, from exercising such power or causing annoyance to him in the exercise of it.	Either imprisonment to 3 months, or fine to Rupees 500, or both.
165	If any other offence is committed at the same time.	Cumulative.

Clause.	Offence.	Penalty.
166	Resisting the taking of any property by the lawful authority of a public servant.	See Clause 159.
167	If any other offence is committed at the same time.	Cumulative.
168	Obstructing a sale held under lawful authority.	See Clause 152.
169	If any other offence is committed at the same time.	Cumulative.
170	Bidding for property at a lawfully authorized sale on account of a person under a legal incapacity to purchase it, or bidding without intending to perform the obligations incurred thereby.	Either imprisonment to one month, or fine, or both.
171	Any person resisting the lawful taking into custody of himself or of any other.	See Clause 159.
172	If any other offence is committed at the same time.	Cumulative.
173	Rescuing or attempting to rescue any person from lawful custody.	See Clause 159.
174	If any other offence is committed at the same time.	Cumulative.
175	Escaping from lawful custody, or attempting to do so.	Either imprisonment to 3 months, or fine, or both.
176	If any other offence is committed at the same time.	Cumulative.
177	Harbouring a person to prevent his being taken into lawful custody. *Exception.* Not to extend to harbouring by relations specified.	Either imprisonment to one month, or fine to Rs. 200, or both.
178	Harbouring a person escaped from custody. *Exception.* As in Cl. 177.	Either imprisonment to 2 months, or fine to Rs. 500, or both.

Clause.	Offence.	Penalty.
179	Insulting or interrupting a public servant in the discharge of his duty.	See Clause 164.
180	If any other offence is committed at the same time.	Cumulative.
181	Intentionally omitting to give assistance to a public servant as directed by law.	See Clause 177.
182	Disobeying the local order of a public servant, if such disobedience causo danger to human life, health, or safety, or any obstruction, or annoyance to persons lawfully employed or rioting.	Idem.
183	If any other offence is committed at the same time.	Cumulative.
184	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Either imprisonment to one year, or fine, or both.
185	If any other offence is committed at the same time.	Cumulative.
186	Threatening any person to induce him to refrain from making a legal application for protection from injury.	See Clause 184.
187	If any other offence is committed at the same time.	Cumulative.

CHAPTER X.—OFFENCES AGAINST PUBLIC JUSTICE.

Clause.	Offence.	Penalty.
190	Giving or fabricating false evidence.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
191	Giving or fabricating false evidence to cause any person to be convicted of a capital offence.	To transportation for life or rigorous imprisonment for life, or not less than 7 years, also liable to fine.

Clause.	*Offence.*	*Penalty.*
192	Giving or fabricating false evidence to cause any person to be convicted of an offence punishable with imprisonment for more than 7 years.	The punishment of that offence.
193	Removing, concealing, &c. any property to prevent its being taken as a forfeiture, or in satisfaction of a fine under a sentence, or in execution of a decree.	Either imprisonment to one year, or fine, or both.
194	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Idem.
195	In a declaration which a Court of Justice is bound to receive as evidence, knowingly stating as true that which is false, touching a material point.	Either imprisonment to 2 years, or fine, or both.
196	Fraudulently or for annoyance instituting a civil suit without just grounds.	See Clause 193.
197	Insulting or interrupting a Court of Justice.	Either imprisonment to 6 months, or fine to Rupees 1,000, or both.
198	If any other offence is committed at the same time.	Cumulative.
199	Threatening any person to induce him to refrain from instituting or defending any civil suit, or from taking any legal steps in such a suit, or from giving evidence in any judicial proceeding.	See Clause 195.
200	If any other offence is committed at the same time.	Cumulative.
201	Escaping or attempting to escape from custody under a lawful sentence.	See Clause 195.
202	If any other offence is committed at the same time.	Cumulative.

Clause.	Offence.	Penalty.
203	Returning from transportation not for life.	Transportation for life, also liable to fine.
204	Returning from transportation for a term of years, and banishment for life, under a commuted sentence.	Idem.
205	Returning from banishment for a term.	Transportation which may extend to 7 years and banishment for life.
206	Harbouring any person escaped from custody under sentence, or returned from transportation or banishment. *Exception.* Not to extend to harbouring by relations specified.	Simple imprisonment to 6 months, or fine to Rupees 1,000, or both.
207	Having accepted a conditional remission of punishment, and violating the condition.	Punishment of original sentence, or if part undergone, the residue.

CHAPTER XI.—OFFENCES RELATING TO THE REVENUE.

Clause.	Offence.	Penalty.
209	Smuggling.	Either imprisonment to 3 months; or fine to Rupees 500, added to 5 times the value of the property smuggled; or both.
210	Receiving smuggled goods knowing them to be smuggled.	Idem.
211	Placing a vessel in a forbidden situation.	Fine to Rupees 1,000.
212	Cultivating, collecting or manufacturing any prohibited article.	Simple imprisonment to 3 months, or fine to Rupees 500, or both.
213	Making or having in possession any implement, material, or receptacle, in order to committing any offence under the last Clause.	Idem.

Clause.	*Offence.*	*Penalty.*
214	Selling any prohibited article.	Either imprisonment to 3 months, or fine to Rupees 500, or both.
215	Having in possession any prohibited article.	Fine to twice the value of the article.
216	Omitting to put a mark on any article as required by law.	Fine to the value of the article.
217	Performing any part of the process of counterfeiting a stamp from which the Government derives a revenue.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
218	Having in possession any implement, &c., for counterfeiting such stamp.	Idem.
219	Making any implement for counterfeiting such stamp.	Idem.
220	Selling any stamp known to be counterfeit.	Idem.
221	Having in possession a stamp, knowing it to be a counterfeit of a Government stamp, intending it for sale.	Idem.
222	Using a counterfeit stamp as genuine.	Either imprisonment to 6 months, or fine, or both.
223	Effacing from a stamp a writing in order that such stamp may be used for a different writing.	Either imprisonment to 3 months, or fine to an amount equal to Rs. 500, added to 5 times the price of such stamp, or both.
224	Using for any writing a stamp known to have been before used for a different writing.	Idem.
225	Establishing or maintaining an illegal post, or conveying or delivering letters, &c. by such post.	Either imprisonment to 3 months, or fine to Rupees 1,000, or both.
226	Being in charge of any letter or packet on board of a vessel and intentionally omitting to deliver the same as required by law.	Fine.

Clause.	*Offence.*	*Penalty.*
227	Being in charge of a Ship and refusing to receive on board any letters, &c. as legally required by a public servant.	Fine to Rupees 500.
228	A person having a license to cultivate, collect, manufacture, import, export, convey, sell, or have in possession any article, acting contrary to the conditions of the license.	Fine to Rupees 200.
229	The punishments of this Chapter are independent of any confiscation to which the property with respect to which the offences have been committed, is liable under any other law.	

CHAPTER XXII.—OFFENCES RELATING TO COIN.

Clause.	*Offence.*	*Penalty.*
232	Counterfeiting Coin.	Either imprisonment maximum 3 years, minimum 6 months, also liable to fine.
233	Counterfeiting the King's or Company's Coin.	Either imprisonment maximum 7 years, minimum 2 years, also liable to fine.
234	Making a die for counterfeiting Coin.	See Clause 232.
235	Making a die for counterfeiting the King's or Company's Coin.	See Clause 233.
236	Having in possession any implement or material for committing an offence under any of the four last preceding Clauses.	See Clause 232.
237	Previously abetting the counterfeiting of the King's or Company's Coin, without the Company's Territories.	See Clause 233.
238	Importing into, or exporting from the Company's Territories counterfeit Coin to be passed as genuine.	See Clause 232.

Clause.	Offence.	Penalty.
239	The same with respect to the King's or Company's Coin.	See Clause 233.
240	Having any counterfeit Coin, known to be such when it came into possession, and delivering, &c., the same to any person with the intention that it shall pass as genuine.	See Clause 232.
241	The same with respect to the King's or Company's Coin.	See Clause 233.
242	Delivering, &c., to any person any Coin as genuine, knowing it to be counterfeit.	Fines to 10 times the value of the genuine Coin.
243	Possessing counterfeit Coin, knowing to be such when it came into possession, intending that it may pass as genuine.	See Clause 232.
244	The same with respect to the King's or Company's Coin.	See Clause 233.
245	A person employed in a Mint intentionally causing by any act or omission, any Coins issued therefrom to be of a weight or composition different from that fixed by law.	Idem.
246	Diminishing the weight or altering the composition of any Coin intending that it shall pass as unaltered.	Either imprisonment maximum 1 year, minimum 3 months, also liable to fine.
247	The same as to the King or Company's Coin.	Either imprisonment maximum 3 years, minimum 1 year, also liable to fine.
248	Possessing any implement or material intending to employ the same for committing an offence under any of the three last preceding Clauses.	See Clause 246.
249	Possessing Coin altered as in Clause 246, having known it to be so altered when it came into possession, and delivering, &c., the same to any person with intention that it may pass as unaltered.	Idem.

Clause.	Offence.	Penalty.
250	The same with respect to the King's or Company's Coin.	See Clause 247.
251	Possessing Coin, known when it came into possession to have been dealt with as in Clause 246, intending to cause the same to be in circulation.	See Clause 246.
252	The same with respect to the King's or Company's Coin.	See Clause 247.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

Clause.	Offence.	Penalty.
253	Fraudulently using a false balance.	Either imprisonment to 1 year, or fine, or both.
254	Fraudulently using a false weight or measure.	Idem.
255	Having a false balance, weight or measure for fraudulent use.	Idem.
256	Making a false balance, weight or measure for fraudulent use.	Idem.

CHAPTER XIV.—OFFENCES AFFECTING PUBLIC HEALTH, SAFETY AND CONVENIENCE.

Clause.	Offence.	Penalty.
257	Malignantly or wantonly doing any act known to be likely to spread the infection of a dangerous disease.	Either imprisonment to 6 months, or fine, or both.
258	Knowingly disobeying any rule of the Quarantine laws.	Idem.

Clause.	Offence.	Penalty.
259	Adulterating food or drink intended for sale so as to make the same noxious.	Either imprisonment to 6 months, or fine to Rupees 500, or both.
260	Selling any food or drink as wholesome knowing the same to be noxious.	Idem.
261	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Either imprisonment to 6 months, or fine to Rupees 1,000, or both.
262	Offering for sale or issuing from a Dispensary, any drug or medical preparation known to have been adulterated.	Idem.
263	Knowingly selling or issuing from a Dispensary any drug or medical preparation, as a different drug or medical preparation.	Idem.
264	Causing the atmosphere in any public way to be noxious or offensive.	Either imprisonment to 1 month, or fine to Rupees 500, or both.
265	Driving or riding on a public way so rashly or negligently as to indicate a want of due regard for human life.	Either imprisonment to 6 months, or fine to Rupees 2,000, or both.
266	Navigating any vessel so rashly or negligently, &c.	Idem.
267	Conveying for hire any person in a vessel in such a state, or so loaded, as to endanger his life.	Idem.
268	Dealing with any poisonous substance so rashly or negligently as to indicate a want of due regard for human life.	Idem.
269	Dealing with fire or any combustible matter so rashly or negligently, &c.	Idem.
270	So dealing with any explosive substance.	Idem.

Clause.	*Offence.*	*Penalty.*
271	So dealing with any machinery.	Either imprisonment to 6 months, or fine to Rupees 2,000, or both.
272	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Idem.
273	A person omitting to take order with any animal in his possession so as to guard against danger to human life or of grievous hurt from such animal.	Idem.
274	Causing danger, obstruction, or annoyance, in any public way or line of navigation.	Fine to Rupees 200.

CHAPTER XV.—OFFENCES RELATING TO RELIGION AND CASTE.

Clause.	*Offence.*	*Penalty.*
275	Destroying, damaging or defiling a place of worship or sacred object with intention to insult the religion of any class of persons.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
276	Causing a disturbance to an assembly engaged in religious worship, and assaulting or threatening any person engaged in such worship.	Either imprisonment maximum 3 years, minimum 6 months, also liable to fine.
277	If any other offence is committed at the same time.	Cumulative.
278	Disturbing a religious assembly in a place of worship.	Either imprisonment to 1 year, or fine, or both.
279	If any other offence is committed at the same time.	Cumulative.
280	Trespassing in a place of sepulture, offering indignity to a human corpse, or disturbing a funeral with intention to wound the feelings, or to insult the religion of any person.	See Clause 278.

Clause.	Offence.	Penalty.
281	If any other offence is committed at the same time.	Cumulative.
282	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feelings.	See Clause 278.
283	Doing or threatening to do any act with intention to cause it to be believed that some person is thereby rendered an object of divine displeasure, &c. &c.	Either imprisonment to 1 year, or fine to Rupees 1,000, or both.
284	Committing an assault with intention to cause a person to lose caste, or inducing him to do something ignorantly, whereby he will incur loss of caste.	Either imprisonment to 6 months, fine to Rupees 2,000, or both.
285	Intentionally causing the food of a person to be in a state, in which he, according to his religion, or caste, cannot use it.	Fine to Rupees 50.
286	If the last offence is repeated after a conviction.	Either imprisonment to 1 month, or fine to Rupees 200, or both.

CHAPTER XVI.—ILLEGAL ENTRANCE INTO AND RESIDENCE INTO THE TERRITORIES OF THE EAST INDIA COMPANY.

Clause.	Offence.	Penalty.
287	A subject of the King, not a native of the Company's Territories, omitting on his arrival by Sea in those Territories to report his name, place of destination, and object of pursuit.	Fine to Rupees 1,000.
288	A subject of the King not a native of the Company's Territories entering the said Territories by land without legal authority.	Simple imprisonment to 3 months, or fine to Rupees 2,000, or both.

Clause.	Offence.	Penalty.
289	A subject of the King, &c. entering or residing in a certain part of the said Territories without the license required by law.	Simple imprisonment to 3 months, or fine to Rupees 2,000, or both.
290	Repeating the last offence after conviction.	Banishment for life or for any term, or simple imprisonment to 1 year; to which fine may be added.

CHAPTER XVII.—OFFENCES RELATING TO THE PRESS.

Clause.	Offence.	Penalty.
291	Possessing a Printing Press not having made and subscribed the declaration required by law.	Simple imprisonment to 2 years, or fine to Rupees 5,000, or both.
292	Printing or publishing any book, &c., without the name of the Printer and Publisher and the place of printing and publishing.	Idem.
293	Printing, &c. any Newspaper, &c. contrary to law.	Idem.

CHAPTER XVIII.—OEFENCES AFFECTING THE HUMAN BODY.

Clause.	Offence.	Penalty.
300	Murder.	Death, or Transportation for life; or rigorous imprisonment for life, also liable to fine.
301	Manslaughter.	Either imprisonment to 14 years, or fine, or both.
302	Voluntary culpable homicide by consent.	Either imprisonment maximum 14 years, minimum 2 years, also liable to fine.
303	Voluntary culpable homicide in defence.	See Clause 301.

Clause.	Offence.	Penalty.
304	Causing death by an act or omission so rash or negligent as to indicate a want of due regard for human life.	Either imprisonment to 2 years, a fine, or both.
305	If the act in the last Clause be otherwise an offence, (other than that defined in Clause 327) or an attempt to commit an offence.	The punishment of the offence committed or attempted in addition to the punishment provided by the last Clause.
306	Abetment by aid of Suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	See Clause 300.
307	Abetting by aid the commission of Suicide.	See Clause 302.
308	Doing any act, &c. with such intention, &c. that if death ensued it would be murder and carrying it to a length at the time contemplated as sufficient to cause death.	Transportation for life, or rigorous imprisonment for life, or not less than 7 years, also liable to fine.
309	Doing any act, &c. with such intention, &c. that if death ensued it would be voluntary culpable homicide and carrying it to a length at the time contemplated as sufficient to cause death.	Either imprisonment to 3 years, or fine, or both.
311	Thuggee.	Transportation for life, or either imprisonment for life, also liable to fine.

Causing Miscarriage.

Clause.	Offence.	Penalty.
312	A woman causing herself to miscarry, or any person causing a woman to miscarry.	See Clause 309.
313	Committing the offence in the last Clause without the woman's consent.	The punishment of miscarriage in excess of any punishment incurred by reason of any hurt caused to the woman.

Of Hurt.

Clause.	Offence.	Penalty.
318	Causing hurt, except as in Clause 325.	Either imprisonment to 1 year, or fine to Rupees 1000, or both.

Clause.	*Offence.*	*Penalty.*
319	Causing grievous hurt, except as in Clause 326.	Either imprisonment maximum 10 years, minimum 6 months, also fine.
320	Causing hurt in an attempt to commit murder.	See Clause 308.
321	Causing hurt for the purpose of extortion.	Rigorous imprisonment maximum 14 years, minimum 1 year, also liable to fine.
322	Causing grievous hurt for the purpose of extortion.	See Clause 308.
323	Causing hurt, (except as in Clause 325) by a sharp instrument, or by fire, &c. or by any corrosive or explosive substance, or by any substance deleterious to inhale or swallow, or by means of any animal.	See Clause 309.
324	Causing grievous hurt (except as in Clause 326) by any of the means described in the last Clause.	Either imprisonment maximum 14 years, minimum 1 year, also liable to fine.
325	Causing hurt on grave and sudden provocation, not intending to hurt any other but the person who gave the provocation.	Either imprisonment to 1 month, or fine to Rupees 500, or both.
326	Causing grievous hurt as in last Clause.	Either imprisonment to 1 year, or fine to Rupees 2000, or both.
327	Causing grievous hurt by an act or omission, so rash or negligent as to indicate a want of regard for the safety of others.	Either imprisonment to 6 months, or fine to Rupees 1000, or both.
328	If the act in the last Clause be otherwise an offence.	Cumulative.
329	Any act or omission intended to cause grievous hurt, the causing of which would be an offence other than that defined in Clause 326, and carrying it to a length at the time contemplated as sufficient to cause grievous hurt.	Either imprisonment to half the term the offender would have been liable to, had he caused the grievous hurt intended, or fine, or both.

Wrongful Restraint and Confinement.

332	Wrongfully restraining any person.	Either imprisonment to 1 month or fine to Rupees 500, or both.

Clause.	Offence.	Penalty.
333	Wrongfully confining any person.	Either imprisonment to 1 year, or fine to Rupees 1,000, or both.
334	Wrongfully confining for 3 days or more.	Either imprisonment to 2 years, or fine, or both.
335	Wrongfully confining for 10 days or more.	Either imprisonment maximum 3 years, in addition to 3 days for every day of such wrongful confinement, also liable to fine.
336	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Either imprisonment maximum 3 years, minimum 1 year, in addition to any term of imprisonment to which the offender may be liable under Clause 335, also liable to fine.
337	Wrongful confinement for the purpose of extortion, &c.	Either imprisonment maximum 3 years, minimum 1 year, in addition to any imprisonment under either of the last two Clauses, also liable to fine.
338	While keeping a person in wrongful confinement, omitting to furnish him with anything necessary to prevent danger of death or hurt.	Either imprisonment to 1 year, or fine, or both.

Assault.

342	Assault otherwise than on grave and sudden provocation.	Either imprisonment to 3 months, or fine to Rupees 500, or both.
343	Assault in attempt to commit murder.	See Clause 308.
344	Assault in attempt to commit kidnapping.	Either imprisonment maximum half the term of imprisonment for kidnapping, minimum 6 months; also liable to fine.
345	Assault in attempt to cause grievous hurt, otherwise than on grave and sudden provocation.	Either imprisonment to ⅓d the term for grievous hurt, or fine, or both.
346	Assault on a woman in attempt to commit rape.	Either imprisonment maximum 3 years, minimum 6 months, also liable to fine.
347	Assault on a woman with intent to outrage her modesty.	Either imprisonment to 2 years, or fine, or both.

Clause.	Offence.	Penalty.
348	Assault on a person with intent to dishonour him otherwise than on grave or sudden provocation.	Either imprisonment to 2 years, or fine, or both.
349	Assault on a person in attempt to commit theft on any property he may be wearing or carrying.	Idem.
350	Assault on a person in attempt to wrongfully confine him.	Either imprisonment to 1 year, or fine to Rupees 1,000, or both.
351	Assault on a person on grave and sudden provocation given by that person.	Either imprisonment to 1 month, or fine to Rupees 200, or both.
352	Making shew of assault except on grave and sudden provocation.	Idem.
	Kidnapping.	
355	Kidnapping.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
356	Kidnapping intending or knowing that murder may be committed in consequence.	See Clause 308.
357	Kidnapping intending or knowing that the consequence may be grievous hurt, or rape, &c.	Either imprisonment maximium 14 years, minimum 2 years, also liable to fine.
358	Being in charge of a vessel and permitting a person to embark on board for a place not within the Company's Territories, without a legal order or permit.	Simple imprisonment to 1 month for every person so embarked, or fine to Rupees 200 for every person, or both.
	Rape.	
360	Rape.	Either imprisonment maximum 14 years, minimum 2 years, also liable to fine.
	Unnatural Offences.	
361	Unnatural offences.	See Clause 360.
362	Unnatural offences without consent.	Either imprisonment maximum for life, minimum 7 years, also liable to fine.

CHAPTER XIX. OFFENCES AGAINST PROPERTY.

Clause.	*Offence.*	*Penalty.*
364	Theft.	Rigorous imprisonment to 3 years, or fine, or both.
365	Theft within any building, tent, or vessel, used as a human dwelling, or any building used for the custody of property, in pursuance of a conspiracy in which any person residing or employed within and any person not so residing or employed are engaged.	Rigorous imprisonment maximum 3 years, minimum 6 months, also liable to fine.
366	Theft on a letter or packet in possession of an Officer of the Post Office.	Idem.
367	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Rigorous imprisonment maximum 7 years, minimum 1 year, also liable to fine.

Extortion.

Clause.	*Offence.*	*Penalty.*
369	Extortion.	Either imprisonment to 3 years, or fine, or both.
370	Putting or attempting to put in fear in order to extortion.	Either imprisonment to 1 year, or fine, or both.
371	Extortion by putting a person in fear, for himself or for another, of death or grievous hurt.	Either imprisonment, maximum 14 years, minimum 2 years, also liable to fine.
372	Putting or attempting to put a person in fear for himself or for another, of death or grievous hurt, in order to extortion.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
373	Extortion by putting a person in fear of being falsely accused or defamed as a person of unnatural lust.	See Clause 371.
374	Putting or attempting to put a person in fear of being falsely accused or defamed as a person of unnatural lust, in order to extortion.	See Clause 372.

Robbery and Dacoity.

Clause.	*Offence.*	*Penalty.*
377	Robbery.	Rigorous imprisonment maximum 14 years, minimum 2 years, also fine.
378	Attempt to commit robbery.	Rigorous imprisonment maximum 7 years, minimum 1 year, also fine.
379	Dacoity.	Transportation for life or rigorous imprisonment for life, or for not less than 3 years, also fine.
380	Murder in dacoity, where 6 or more engaged in committing it.	Death, or transportation for life, or rigorous imprisonment for life, or for not less than 7 years, also fine.
381	Being one of 6 or more persons assembled for dacoity.	See Clause 378.
382	Causing hurt in committing robbery or dacoity.	Cumulative.

Criminal Misappropriation of Property not in Possession.

384	Criminal misappropriation of property not in possession.	Either imprisonment to 2 years, or fine, or both.
385	Criminal misappropriation of property not in possession knowing that it was in possession of a deceased person at his death, and has not since been in the possession of any person legally entitled to it.	Either imprisonment maximum 3 years, minimum 6 months, also liable to fine.

Criminal Breach of Trust.

387	Criminal breach of Trust.	Either imprisonment to 3 years, or fine, or both.
388	Criminal breach of Trust by a public servant in the Post Office Department by misappropriating letters, &c., entrusted to him.	See Clause 385.

Receiving Stolen Property.

390	Receiving stolen property knowing it to be stolen.	See Clause 387.

Clause.	Offence.	Penalty.
391	Receiving stolen property knowing it was obtained by Dacoity.	See Clause 379.
	Cheating.	
394	Cheating.	Either imprisonment to 1 year, or fine, or both.
395	Cheating a person whose interest the offender was bound to protect.	Either imprisonment to 2 years, or fine, or both.
396	Cheating by personation.	Idem.
397	Attempting to cheat by personation.	See Clause 394.
	Fraudulent Insolvency.	
398	An Insolvent Trader fraudulently removing or concealing or delivering or transferring to any party any property, to prevent the distribution of that property among his creditors.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
	Mischief.	
400	Mischief.	Fine to 10 times the wrongful loss thereby caused.
401	Mischief having taken precaution not to be detected.	Either imprisonment to 6 months, or fine, or both.
402	Mischief thereby causing wrongful loss to Rupees 5 or upwards.	Idem.
403	Mischief thereby causing wrongful loss to Rupees 100 or upwards.	Either imprisonment to 2 years, or fine, or both.
404	Mischief intending to enhance the value of any article, or to affect the event of any competition, for the gain of any person.	Idem.
405	Mischief with intent to insult or annoy the person to whom wrongful loss is intended.	Idem.

Clause.	Offence.	Penalty.
406	Mischief by killing, wounding, or poisoning any animal to the value of Rupees 10.	Either imprisonment to 3 years, or fine, or both.
407	Mischief on any channel or reservoir of water with intent to cause diminution of cultivation, or agricultural produce, or a failing of the supply of water required for food, drink, &c., or for carrying on any manufacture.	Idem.
408	Mischief on any road, bridge, or navigable channel with intent to render it less safe or easy to travel.	Idem.
409	Mischief with intent to cause an inundation attended with loss to Rupees 100 or upwards.	Idem.
410	Mischief on any light house or buoy with intent to render the same less useful.	Idem.
411	Mischief on any landmark with intent to render it less useful.	Either imprisonment to 1 year, or fine, or both.
412	Mischief by fire with intent to destroy property not within a building to the value of Rupees 100 or upwards.	Either imprisonment maximum 7 years, minimum 6 months, also liable to fine.
413	Mischief by fire with intent to destroy any building used as a dwelling or for the custody of property.	Either imprisonment maximum 14 years, minimum 1 year, also liable to fine.
414	Mischief by fire with intent that buildings used as dwellings to the number of 5 may be consumed.	Transportation for life, or rigorous imprisonment for life, or for not less than 7 years, also liable to fine.
415	Mischief on any decked vessel to destroy it or render it unsafe.	Either imprisonment maximum 14 years, minimum 2 years, also liable to fine.
416	Mischief, having made preparation for causing death, hurt, or wrongful restraint, or fear of death, hurt, or wrongful restraint, while committing, or attempt to commit or retiring after committing such mischief.	Either imprisonment maximum 3 years, minimum 6 months, also liable to fine.

Clause.	*Offence.*	*Penalty.*
417	If any other offence committed at the same time.	Cumulative.

Criminal Trespass.

Clause.	*Offence.*	*Penalty.*
425	Criminal Trespass.	Either imprisonment to 1 month, or fine to Rupees 500 or both.
426	House Trespass.	Either imprisonment to 1 year, or fine to Rupees 1,000, or both.
427	House Trespass in order to committing any other offence actually committed.	Cumulative
428	House Trespass in order to any offence punishable with death, or transportation for life.	Transportation for life, or rigorous imprisonment for life, or for not less than 3 years, also liable to fine.
429	House Trespass in order to any offence punishable with imprisonment.	Either imprisonment to 1 year, added to $\frac{1}{3}$d of the longest term for the offence intended, or fine, or both.
430	House Trespass, having made preparation for causing hurt, assault, &c.	Either imprisonment to 2 years, or fine, or both.
431	Lurking house trespass or house breaking.	Idem.
432	Lurking house trespass or house breaking in order to committing any other offence actually committed.	Cumulative.
433	Lurking house trespass or house breaking in order to committing an offence punishable with imprisonment.	Either imprisonment to 2 years, added to $\frac{1}{2}$ the longest term of imprisonment for the offence intended, and not less than $\frac{1}{2}$ the shortest term, also liable to fine.
434	Lurking house trespass or house breaking having made preparation for causing hurt, or assault, &c.	Either imprisonment maximum 3 years, minimum 3 months, also liable to fine.
435	Lurking house trespass, &c. by night.	Either imprisonment to 3 years, or fine, or both.

Clause.	Offence.	Penalty.
436	Lurking house trespass, &c. by night, in order to committing any other offence actually committed.	Cumulative.
437	Lurking house trespass, &c. by night, in order to any offence punishable with imprisonment.	Either imprisonment to 3 years, added to ⅔ds of the largest term of imprisonment for the offence intended and not less than the shortest time, also liable to fine.
438	Lurking house trespass, &c., by night having made preparation for causing hurt, &c.	Either imprisonment maximum 7 years, minimum 6 months, also fine.
439	Criminal trespass by opening any closed receptacle for property, so as to damage it, or by opening any lock.	See Clause 430.
440	Being entrusted by law or under a contract with any closed receptacle for property, committing criminal trespass by opening the same with a fraudulent intention by any means by which it is damaged, or by opening any lock.	See Clause 435.

CHAPTER XX.—OFFENCES RELATING TO DOCUMENTS.

Clause.	Offence.	Penalty.
443	Committing Forgery, or using a forged document as genuine.	Either imprisonment to 2 years, or fine, or both.
444	Forging or falsifying a valuable security, or using the forged document as genuine.	Either imprisonment maximum 14 years, minimum 2 years, also liable to fine.
445	Forging a document, or using a forged document as genuine, for the purpose of cheating.	Either imprisonment maximum 7 years, minimum 1 year, also liable to fine.
446	Forging a document, or using a forged document as genuine, to harm the reputation of any party.	Either imprisonment maximum 3 years, minimum 6 months, also liable to fine.

Clause.	Offence.	Penalty.
447	Making any apparatus or material for engraving, or any seal, for the purpose of committing forgery.	See Clause 444.
448	Possessing any plate, or material, or implement for engraving, or any seal, for the purpose of forgery.	Idem.
449	Possessing any forged document purporting to be a valuable security intending that it may be used as genuine.	Idem.
450	Possessing any thing not a document, but which has been marked by forgery, intending that it may be made a document purporting to be a valuable security and may be used as genuine.	Idem.
451	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting a will.	Idem.
452	Fraudulently destroying or defacing, or secreting a valuable security.	See Clause 446.
453	A public servant in the Post Office Department opening any letter, &c., containing any document, without legal authority.	Either imprisonment to 2 years, or fine, or both.
454	Any person opening a fastened letter, &c., containing a document, knowing that it does not belong to him, &c.	Either imprisonment to 6 months, or fine to Rupees 500, or both.

CHAPTER XXI.—OFFENCES RELATING TO PROPERTY MARKS.

Clause.	Offence.	Penalty.
456	Making any counterfeit property mark or using such as genuine.	Either imprisonment to 1 year, or fine, or both.
457	Counterfeiting any property mark affixed by the lawful authority of any public servant, or using such counterfeit as genuine to cause injury to some party.	Either imprisonment maximum 3 years, minimum 6 months, also fine.

Clause.	Offence.	Penalty.
458	Making or using any counterfeit property mark for the purpose of cheating.	Either imprisonment to 2 years, or fine, or both.
459	Putting any property mark on any property or using the same, for the purpose of cheating.	See Clause 456.

CHAPTER XXII. ILLEGAL PURSUIT OF LEGAL RIGHTS.

Clause.	Offence.	Penalty.
460	Taking property from a person, not fraudulently but to satisfy a just debt, under such circumstances that if the intention were fraudulent the act would be theft or robbery.	Either imprisonment to 1 year, or fine, or both.
461	Taking property as in the last Clause, and *keeping* the same *fraudulently*.	The punishment to which the offender would have been liable had the taking been fraudulent.
462	If hurt has been caused in committing any of the offences of this Chapter.	Cumulative.

CHAPTER XXIII. CRIMINAL BREACH OF CONTRACTS OF SERVICE.

Clauee.	Offence.	Penalty.
463	Being bound by contract to convey or conduct any person or property from one place to another, and illegally omitting to do so.	Either imprisonment to 1 month, or fine to Rupees 100, or both.
464	A Seaman bound to serve in a merchant vessel leaving it, or absenting himself from it, or disobeying the order of any officer thereof.	Either imprisonment to 3 months, or fine to Rupees 100, or both.
465	Being bound to attend on, or supply the want of a person who is helpless from youth, unsoundness of mind, or disease, and omitting to do so.	Either imprisonment to 6 months, or fine to 500 Rupees, or both.

CHAPTER XXIV.—OFFENCES RELATING TO MARRIAGE.

Clause.	Offence.	Penalty.
466	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Either imprisonment maximum 14 years, minimum 2 years, also fine.
467	A woman committing the same offence with a man.	Simple imprisonment to 1 year, or fine, or both.
468	A person with fraudulent intention going through the ceremony of being married knowing that he is not thereby lawfully married.	Either imprisonment maximum 3 years, minimum 6 months, also fine.

CHAPTER XXV.—DEFAMATION.

Clause.	Offence.	Penalty.
479	Defamation.	Simple imprisonment to 2 years, or fine, or both.
480	Being the possessor of machinery by which defamatory matter has been printed or engraved, at the time the printing or engraving was done.	Idem.
481	Being the first seller of the printed or engraved substance by which defamation is committed.	Idem.

CHAPTER XXVI.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

Clause.	Offence.	Penalty.
483	Criminal intimidation.	Either imprisonment to 2 years, or fine or both.
484	Criminal intimidation having taken precaution to conceal whence the threat comes.	Either imprisonment maximum 3 years, minimum 6 months, also fine.

Clause.	Offence.	Penalty.
485	Uttering any word, or making any sound, or gesture, or exhibiting any object, to insult any person.	Either imprisonment to 3 months, or fine to Rupees 1,000, or both.
486	Uttering any word to insult the modesty of any woman.	See Clause 483.
487	Uttering any word, &c. malignantly and wantonly to annoy any person.	Either imprisonment to 1 month, or fine to Rupees 100, or both.
488	Appearing in a public place in a state of intoxication, and causing annoyance to any person.	Simple imprisonment to 24 hours, or fine to Rupees 10, or both.

D. ELIOTT.

SCHEDULE C.

RULES FOR ASSESSORS AND JURORS.

All male persons hereunder described, except as hereinafter excepted, being of the full age of 21 years, shall be eligible and liable to serve as Assessors and Jurors in trials by the Courts of Session, viz.

Covenanted and Commissioned Officers of Her Majesty and the East India Company, in the Civil, Military, and Medical Services.

Persons eligible under the rules of each Presidency for any of the Offices of Principal Sudder Ameen, Sudder Ameen and Moonsiff, or who have formerly served in any of those Offices, or in any other Public Office of equal rank with credit.

Law Officers of the Courts not exercising Judicial functions, and persons who have formerly served as Law Officers with credit.

Authorized Pleaders and Mooktears of the Courts.

British Subjects, and other persons, not in the Public Service, of good education and of respectable character and station, possessed of property in lands, tenements or goods to the value of not less than 3,000 Company's Rupees, or enjoying an income amounting to not less than 300 Company's Rupees by the year.

The following persons shall be excepted:

Officers of the Civil Service exercising Judicial functions, or employed in the Department of Police.

Persons above the age of 60, and others who may be unable from infirmity to leave their homes.

Ministers of religion, or persons devoted to religious offices, or who are bound by religious vows to abstain from secular affairs.

Persons exempted on account of rank or other cause by any general or special rule or order of the Government of the Presidency.

A list shall be kept in every Court of Session of all persons residing within the jurisdiction of the Court, who are eligible as Assessors and Jurors under the above rules, which list shall be revised and corrected from time to time according to the orders, which shall be given in that behalf by the Government of the Presidency.

The said list shall be in the form following:

	British Subjects.		*Other Persons.*	
	1.	2.	3.	4.
	Official.	Non-Official.	Official.	Non-Official.
Residing at the Station of the Court, or within 10 miles from it, ...	———	———	———	———
Beyond 10 miles and within 20,	———	———	———	———
Beyond 20 and within 30, ...	———	———	———	———
And so on till the extreme limit of the Zillah is reached.				

When a trial is to be held with Assessors, if the defendant is not a British subject, the names of all persons in column 4 of the list, residing within the first circle, that is, at the station of the Court, or within 10 miles from it, who have not served within 6 months, shall be put into a box, and whatever may be the number of Assessors or Jurors required to be present at the trial twice as many names shall be drawn therefrom. If the number required is not then complete, it shall be made up by repeating the process with the names of persons of the same description residing within the second circle and so on successively with the names of persons of the same description within each remoter circle until the list is exhausted, and afterwards with the names of persons in column 3, in the same order as to their residence, it being intended that no person in column 4, who has already served once within 6 months, shall be summoned to serve again till all other persons in columns 3 and 4 have had one turn.

When a trial is to be held with Assessors the defendant being a British subject the same process shall be followed except that the names of persons in column 2 shall be put into one box, and the names of persons in column 4 into another box, and that one name shall be drawn from the former for two from the latter.

When a trial is to be held with a Jury the same process shall be followed, except that the names of British subjects only shall be put into the box.

The names of the persons to be summoned as Assessors or Jurors shall be drawn in the presence of the defendant. If he does not object to the persons whose names are drawn they shall be summoned. If an objection is made by the defendant it shall be heard by the Judge, whose decision upon it shall be final. If the objection is overruled the person objected to shall be summoned. If the objection is admitted another name shall be drawn.

The summons to an Assessor or Juror, which shall be served in the same manner as a summons to a witness, shall contain a requisition to the person named in it to attend the Court at a certain hour on a certain day, for the purpose of assisting at a Criminal trial, with a notice that if he does not attend, and has no sufficient excuse to offer he will be liable to a fine.

Provided that it shall be at the discretion of the Judge to substitute for the summons a sealed letter to the same effect, when the person whose attendance is required is of a rank or class in society, which may seem to entitle him to such mark of consideration, and to cause it to be delivered in such manner as he may deem meet.

In fixing the time at which an Assessor or Juror shall be required to attend, one clear day shall be allowed for preparation, after that on which the summons or letter is expected to be delivered, and one day for every 10 miles of distance.

If a person, who has received a citation to attend as an Assessor or Juror by summons or by letter, shall not appear at the time appointed, or shall refuse to serve, the Judge shall have authority to impose upon him a fine not exceeding————

Provided, that it shall be at the discretion of the Judge to excuse a person from attending or serving for any cause duly certified which he may deem sufficient.

Out of the persons attending the number required to assist at the trial shall be selected by lot, and the others shall be immediately discharged.

When the Court is ready for the trial the Assessors or Jurors shall be seated by the side of the Judge, or in a convenient place near to his

seat, and the prisoner being brought to the bar, the charge against him shall be read to them, and they shall each make an affirmation as follows: "I solemnly affirm in the presence of Almighty God that I will without "fear or favor give a conscientious verdict upon the charge against the "prisoner at the bar according to the evidence."

The trial shall then proceed in the usual manner.

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